

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1409**

Rahel Bikila,
Relator,

vs.

Morrison Management Specialists, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed June 8, 2026
Reversed and remanded
Bentley, Judge**

Department of Employment and Economic Development
File No. 51081909-5

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Morrison Management Specialists, Inc., Roseville, Minnesota (respondent employer)

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Considered and decided by Bentley, Presiding Judge; Beane, Judge; and Smith,

John, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

BENTLEY, Judge

Relator, a person who speaks Amharic, participated in an evidentiary hearing before an unemployment-law judge (ULJ) without the assistance of an interpreter. After the ULJ determined that relator was ineligible for unemployment benefits, relator requested reconsideration because her language challenges prevented her from meaningfully participating in the hearing. The ULJ set aside the first decision and held an additional evidentiary hearing, this time with an interpreter. Nevertheless, the first hearing remained in the record and, despite hours of additional testimony during the additional hearing, the ULJ's subsequent decision denying benefits was a near duplicate of the initial one.

We conclude that these agency proceedings were significantly irregular, rendering the ULJ's decision arbitrary and capricious. Accordingly, we reverse and remand for additional proceedings.

FACTS

Relator Rahel Bikila, a native Amharic speaker, was discharged from her position as a patient and dining associate with respondent-employer Morrison Management Specialists, Inc. (MMSI) on August 29, 2024. MMSI discharged Bikila after an incident on August 22, 2024, in which her supervisor alleged that Bikila did not perform any work tasks for approximately the first hour of her shift and, when confronted, was untruthful about her whereabouts and took credit for the work of others. After MMSI discharged Bikila, she applied for and was initially determined to be eligible to receive unemployment

benefits by respondent Minnesota Department of Employment and Economic Development (DEED). MMSI appealed that determination.

A ULJ held an evidentiary hearing on the appeal on December 9, 2024. Bikila did not receive advance notice of the evidentiary hearing because her mailing address was incomplete in DEED's records, but she participated in the hearing because she happened to answer the phone when the ULJ called. The hearing was conducted over the phone and included testimony from both Bikila and her supervisor. Although Bikila speaks some English, her understanding of English is limited. Bikila was not offered an interpreter during the hearing, and she attempted to answer the ULJ's questions and cross-examine the supervisor on her own.

In a decision dated December 11, 2024, the ULJ found that, during the August 22 shift, "Bikila was intentionally avoiding work" and "intentionally being dishonest" with her supervisor, whom the ULJ found credible because his testimony was "detailed, specific, and based on review of GPS information." The ULJ therefore determined that Bikila was discharged for employment misconduct, rendering her ineligible for unemployment benefits. The order further required Bikila to return \$7,836 in overpaid benefits.

Bikila obtained counsel and requested reconsideration of the decision, arguing that she had been unable to participate meaningfully in the hearing without an interpreter, the record was not adequately developed, and she was denied due process. The ULJ issued an order to set aside the decision and hold an additional evidentiary hearing. But the order noted that, "[a]ll of the testimony taken at the December 9, 2024 hearing . . . will remain part of the record."

The second evidentiary hearing was held on March 19, 2025. The ULJ began the hearing by playing the entire recording of the first hearing with pauses to allow an Amharic interpreter to translate for Bikila. After the recording concluded, the ULJ permitted Bikila to give additional testimony, correct the record from the first hearing, and to cross-examine her employer through her attorney.

The ULJ's second decision, dated March 20, 2025, did not include any new factual findings or legal conclusions that differed from the first decision. The only changes made between the first and second decisions were the date of the hearing and a reference to Bikila's counsel—otherwise, the decisions were identical.

Bikila submitted another request for reconsideration, arguing that the decision was a product of legal error because the ULJ failed to consider evidence from the second hearing. The ULJ affirmed the decision, determining that “the parties did not provide substantially new or different testimony in the second hearing.”

Bikila appeals by writ of certiorari.

DECISION

Bikila argues that the ULJ's determination that she is ineligible for unemployment benefits was arbitrary or capricious and unsupported by substantial evidence. She also maintains that the proceedings violated state and federal law by depriving her of meaningful access to the proceeding as a person with limited understanding of English and that the proceedings violated her constitutional due-process rights. We begin with her arguments under the arbitrary-or-capricious standard and, because we conclude that reversal is appropriate on that basis, we do not reach her other arguments.

When reviewing ULJ decisions appealed by writ of certiorari, we may affirm or remand the decision, or we may reverse or modify the decision “if the substantial rights of the petitioner may have been prejudiced.” Minn. Stat. § 268.105, subd. 7(d) (2024). A petitioner’s substantial rights are prejudiced if the decision was

- (1) in violation of constitutional provisions;
- (2) in excess of the statutory authority or jurisdiction of the department;
- (3) made upon unlawful procedure;
- (4) affected by other error of law;
- (5) unsupported by substantial evidence in view of the hearing record as submitted; or
- (6) arbitrary or capricious.

Id. We review the ULJ’s findings of fact in the light most favorable to the decision, and we rely on findings substantially supported by the record. *Fay v. Dep’t of Emp. & Econ. Dev.*, 860 N.W.2d 385, 387 (Minn. App. 2015).

The Minnesota Supreme Court has described the arbitrary-or-capricious standard as a “catchall, picking up administrative misconduct not covered by the other more specific paragraphs.” *In re Denial of Contested Case Hearing Requests*, 993 N.W.2d 627, 646 (Minn. 2023) (quotation omitted)). Under this standard, we consider whether a decision contains “danger signals” that suggest the decisionmaker did not take a “hard look at the salient problems” or did not “genuinely engage[] in reasoned decision-making.” *Id.* at 646-47. The supreme court has stated that irregularities in procedure may constitute a “danger signal.” *Id.* at 648 (quotation omitted).

Applying this standard, we conclude that the procedural irregularities in this case constitute danger signals of arbitrary decision-making and warrant reversal. We identify

three concerning irregularities in the agency proceedings: (1) the failure to follow Minnesota Rule 3310.2911 (2025), by not continuing the first hearing to obtain an Amharic interpreter; (2) the consideration of testimony from the first hearing, despite the significant language barrier that affected Bikila's ability to participate meaningfully in and understand the proceeding; and (3) the absence of any additional facts or explanation in the ULJ's decision that followed the second hearing.

Failure to Continue the First Hearing

The first deviation from DEED's norms that we identify is that the initial evidentiary hearing was not continued, despite ongoing miscommunications that signaled that Bikila would benefit from the assistance of an interpreter.

DEED's rules require that an "unemployment law judge must continue any hearing where a witness or party needs an interpreter in order to be understood or to understand the proceedings." Minn. R. 3310.2911. Here, the ULJ did not continue the hearing to acquire an Amharic interpreter to assist Bikila. Based on our review of the hearing transcript, Bikila consistently demonstrated that she did not understand the proceedings and that she was not able to effectively communicate with the ULJ. A continuance to obtain an interpreter would have been appropriate, and the ULJ's failure to do so is an unexplained deviation from DEED's practices.

To illustrate the extent of miscommunications that occurred, we provide several notable examples from the transcript.

From the beginning of the hearing, it was evident from Bikila's responses that she did not understand that she was participating in a hearing to determine her eligibility for

unemployment benefits. When answering the ULJ's questions, Bikila's answers were often unresponsive to the question or responsive to only a single word in the question. For example, in the following exchange early in the hearing, Bikila misunderstood the ULJ's question about whether she was planning to call witnesses, and she answered the question as if the ULJ asked her if she was planning to find a new job.

ULJ: Well, is there anyone else you're planning to have in the hearing on your behalf? Any . . . representatives or witnesses or just you today?

BIKILA: Okay. One (1) witness for the meeting.

ULJ: Oh, yeah. Do you have anyone else you're planning to have in the hearing?

BIKILA: Oh, the planning? Yes. I just want to find another job, or I'm just trying. Yes, of course, I have planning.

ULJ: Oh, no, no. Do you . . . want me to call anyone for you for the hearing or is it just you in the hearing?

BIKILA: Oh, okay. Fine. Okay. Yes. Yes.

Although the ULJ seemed to recognize that Bikila's answers were not responsive to the questions, the ULJ confirmed only that Bikila was able to hear clearly. Yet, Bikila continued to demonstrate that she was not understanding the proceedings, as shown by the following exchange.

ULJ: So do you . . . have a representative or an attorney for this hearing? Yes or no on that?

BIKILA: An attorney for what?

ULJ: Attorney. Lawyer. Attorney. Do you have an attorney or lawyer or a representative for the hearing?

BIKILA: For what lawyer?

ULJ: Yeah. Ms. Bikila, is there a language barrier here? Are you having a hard time understanding me?

BIKILA: Yes, I speak English too, but you asked me, you called me for unemployment. That's right?

The ULJ affirmed this was for unemployment benefits and moved on without inquiring further. Still, Bikila did not demonstrate that she understood that she was testifying in an administrative hearing.

ULJ: And do you have anyone else? Do you have anyone else you were expecting to have present in the hearing? Did you have any witnesses or attorneys for the hearing?

BIKILA: What kind of witnesses? For what?

ULJ: Yeah, for the unemployment hearing because there's a hearing right now—

BIKILA: Okay.

The transcript reflects that these communication problems continued throughout the ULJ's explanation of the hearing. After the ULJ explained that the hearing would include testimony from both Bikila and her supervisor, the ULJ asked whether Bikila had any questions about the hearing process, and Bikila asked the following questions.

BIKILA: Okay. Yes, then, what is this process? It's like unemployment for me or what?

ULJ: Yes, it's an unemployment hearing regarding whether or not you're eligible based on your separation from Morrison Management Specialists. So whether you're eligible for unemployment benefits. Do you have any other questions?

BIKILA: Okay.

ULJ: Do you have any other questions?

BIKILA: Mm-hmm.

ULJ: Oh, do you have any more questions?

BIKILA: Yes, so I have questions, too. Yes. So the Morrison, if you close for unemployment or what?

ULJ: No, you may or may not be eligible based on your separation. So that's what this hearing is about, is whether—

BIKILA: Oh okay. Okay. Oh.
ULJ: —or not you get your benefits.

By this time in the exchange, the ULJ had told Bikila at least three times that he called for her unemployment hearing. Despite Bikila's repeated confusion about the process, no additional inquiry was made into Bikila's language proficiency or whether she needed an interpreter.

At oral argument, DEED argued that Bikila's understanding of the proceedings improved as the hearing went on, and she was able to fully participate. We are not persuaded. The transcript shows that the language problems persisted throughout the hearing. For example, after Bikila's supervisor testified, the ULJ explained to Bikila that she had the opportunity for cross-examination.

ULJ: But do you have anything you want to ask [your supervisor] before you explain to me?

BIKILA: Yes. I asked him. So my question is, still misunderstand me, my supervisor. That's it. This question, they no change mind. That is true. But.

ULJ: So [supervisor], . . . Do you think you misunderstood her? Think that was the issue?

BIKILA: Yes. Yeah. A hundred percent. Because it's.

ULJ: Oh, no, Ms. Bikila, let's let him answer it now. So, [supervisor], do you think you were just misunderstanding her during this time?

BIKILA: That's. Yes. I understand. Yeah.

As another example, during Bikila's testimony, she referenced a coworker who could verify her version of events. When the ULJ asked for more information, Bikila responded, "I write him the name for, for my union. I give you everything information." The ULJ then clarified, "I'm not part of the union." We are particularly concerned that, at

this late point in the hearing, Bikila still did not appear to be fully aware that she was in an administrative hearing and testifying before a ULJ.

Even though Bikila stated that she “speak[s] English too,” the transcript is clear—she did not understand the proceedings during the first hearing and was unable to fully participate. Under rule 3310.2911, the hearing should have been continued to find an Amharic interpreter. It was irregular for the ULJ to proceed with the hearing without any additional inquiry into the evident language barrier or to offer Bikila an interpreter. *See Denial of Contested Case Hearing Requests*, 993 N.W.2d at 648 (stating that an irregular procedure, even if it “does not rise to the level of an *unlawful* procedure,” may still “constitute a danger signal” of an arbitrary or capricious decision (quotation omitted)). The decision to proceed with the hearing creates the appearance of a failure to take a “hard look at the salient problems”—namely, whether Bikila understood the stakes and purpose of the hearing. *Id.* at 646-47 (quotation omitted).

Reliance on Testimony from the First Hearing

The second procedural irregularity that occurred was the ULJ’s continued reliance on testimony from the first hearing, despite Bikila explaining in her request for reconsideration that her language barrier prevented her full participation. We again emphasize that the DEED rules mandate that a ULJ “must *continue* any hearing where a witness or party needs an interpreter in order to be understood or to understand the proceedings.” Minn. R. 3310.2911 (emphasis added). This means that the ULJ must pause the hearing, i.e., stop taking testimony, when an interpreter is needed. The rule demonstrates a practice of not considering the testimony of a witness without the presence

of an interpreter. Nevertheless, in this case, the testimony admitted in the first hearing remained in the record following the second hearing and, as evident from the lack of additional or new findings after the second hearing, the testimony from the first hearing still formed the basis of the ULJ's decision.

Bikila stated in her request for reconsideration that she “did not understand that a hearing was taking place,” she “did not understand the proceeding,” she “could not understand [her supervisor] well enough to be able to think of any cross-examination questions,” and she “did not know what [she] should add to [her] testimony because there was so much of the hearing that [she] did not understand.” We view the continued reliance on Bikila's testimony from the first hearing as another danger signal of arbitrary decision-making because it is inconsistent with DEED's rules, and the inconsistency is not explained in the record.

Failure to Make New Findings in Second Decision

The third irregular procedure we identify is that the decision rendered after the second hearing was nearly identical to the first decision. The similarity of the decisions is striking because the second hearing included a full translation of the first hearing and almost two-and-a-half hours of additional testimony aided by an Amharic interpreter. Given the volume of additional evidence at this hearing, as well as Bikila's ability to give clearer and more detailed testimony, the unexplained absence of any new findings of fact in the second decision is an irregularity signaling arbitrary decision-making. To illustrate this irregularity, we begin by drawing some comparisons between Bikila's testimony at the

first hearing and her testimony through an interpreter at the second hearing. We then address several pertinent details developed in the second hearing.

During the first hearing, Bikila's supervisor asserted that Bikila spent approximately the first 20 minutes of her shift on August 22 avoiding her assigned tasks. Bikila's explanation of those 20 minutes during the first hearing was:

And then, supervisor, he writing the board, my name, where you go, [the hospital building], 7th floor. And then, I clock another, the pager. That is different. After 15 minutes, he writing my name. Like, that means it's 6:20. He writing the name. 6:20, I clock in my pager. And then, I take my card. I go to watch [sic] soiled trays.

In comparison, in the second hearing, Bikila explained that she would "always" consult an assignment board at the start of her shift that listed her name and told her "which room [she] should go to clean." But, on this day, Bikila explained that the board had not been updated when she clocked in.

BIKILA'S ATTORNEY: Okay, so for that first 20 minutes, you didn't have a specific assignment, is that right?

....

BIKILA: There was none, I was just waiting for my name to appear on the board.

BIKILA'S ATTORNEY: And so did you try to find work to do?

....

BIKILA: Yes, I tried to seek other, other positions, other place to work.

With the assistance of an interpreter, Bikila's testimony became demonstrably more responsive and easier to understand.

Bikila went on to explain that, in lieu of having an assigned task for the first 20 minutes, she instead helped a coworker set up his station in the kitchen. In the first hearing, Bikila's supervisor stated that Bikila could not have been helping her coworker for the first 20 minutes of her shift because Bikila's coworker "did not actually start doing his job until after 6:30." Bikila attempted to explain, "I know [coworker] is starting ready for patients at 6:30 but before 6:30 is he setup to his, his area. He has to bring everyone food." In the second hearing, Bikila clarified this explanation, stating that her coworker "starts his job at 5 o'clock and he continues until 6:30 with the setup," and so she was helping her coworker "with the setup for the first twenty minutes." Specifically, she said that she helped her coworker by "trying to warm up the . . . plates because the patients used these warmed up plates."

Bikila's additional explanation of what she was doing and why during the first 20 minutes of her shift expanded on the testimony from the first hearing with more precise details. But despite that additional explanation, in the decision issued following the hearing, the ULJ issued the same finding as the first hearing: "Bikila was not performing any work tasks between 6:00 a.m. and 6:20 a.m."

The second hearing also included detailed testimony by both Bikila and her supervisor on the impact of her language barrier on the conversations leading up to her discharge. During the original testimony, Bikila's supervisor testified that, in his meeting with Bikila where he asked her to explain her whereabouts, he "felt [he] understood her and that she was not being truthful." But during the second hearing, both parties testified about the conversation in more detail. Bikila testified, "[W]hen they called me to the office,

I told them the truth but there was some misunderstanding. I was crying because they couldn't understand what I was saying, but I've never told any . . . lie." Bikila also testified that her supervisor had to help her write a statement because she does not "know how to write or read" in English. She emphasized that "[t]hey didn't actually give [her] the option to speak in [her] own language." Her supervisor then testified that he "did not feel that [Bikila] was misunderstanding" him during their conversation. He also stated that he attempted to explain things to her in multiple different ways and he had two other individuals with him to ensure he transcribed Bikila's written statement accurately.

In the second decision, there is no mention of any language barrier between the parties. The ULJ instead repeated the finding from the first decision that Bikila "was intentionally being dishonest" during that conversation.

Although we review a ULJ's findings of fact in the light most favorable to the decision, *Fay*, 860 N.W.2d at 387, it strains credulity that a hearing of this length and involving this level of minute-by-minute detail resulted in no new factual findings or legal conclusions. Without additional explanation of what evidence the ULJ considered from the second hearing and why it was or was not convincing, the second decision fails to reflect that the ULJ took a "hard look" at the evidence. *See Denial of Contested Case Hearing Requests*, 993 N.W.2d at 646 (defining arbitrary-or-capricious standard). We are left with the impression that the only evidence considered by the ULJ was the testimony from the first hearing, which, as we discussed, was significantly impeded by communication challenges.

We are also unpersuaded by the explanation offered for the identical orders in the order of affirmation. The order stated that the ULJ’s findings of fact “remained substantially the same” because “[t]he parties did not provide substantially new or different testimony in the second hearing,” and so “by extension, the reasons for decision remained the same.” This assertion is at odds with the transcript of the second hearing which, as we have explained, included more detailed and different testimony on topics relevant to the circumstances surrounding Bikila’s discharge. The order of affirmation thus does not dissuade us from concluding that the ULJ’s decision-making was arbitrary and capricious.

In sum, we conclude that the procedural irregularities that occurred throughout these agency proceedings—including unexplained departures from DEED’s rules and a decision that was not revised after an additional lengthy evidentiary hearing—do not reflect a “hard look at the salient problems” and render the ULJ’s decision arbitrary or capricious. *Id.* (quotation omitted). We reverse and remand for additional proceedings not inconsistent with this opinion.

Reversed and remanded.