

*This opinion is nonprecedential except as provided by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
A25-1432**

Augustine M. Togba,
Relator,

vs.

Micro Parts, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed March 30, 2026
Affirmed
Smith, John, Judge ***

Department of Employment and Economic Development
File No. 51721283-4

Augustine Togba, St. Paul, Minnesota (pro se relator)

Gregory L. Peters, Francis P. Rojas, Peters & Kappenman, P.A., Minneapolis, Minnesota
(for respondent employer)

Keri A. Phillips, Melannie M. Markham, Katrina Gulstad, Minnesota Department of
Employment and Economic Development, St. Paul, Minnesota (for respondent
department)

Considered and decided by Ede, Presiding Judge; Bentley, 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NONPRECEDENTIAL OPINION

SMITH, JOHN, Judge

We affirm the decision of an unemployment-law judge (ULJ) that relator is ineligible for unemployment benefits because he was discharged for employment misconduct.

FACTS

The following factual summary stems from the record of the hearing before the ULJ and the ULJ's findings of fact.

Relator Augustine M. Togba was employed as a parts cleaner by respondent Micro Parts, Inc., beginning January 27, 2020. Relator last worked on December 19, 2024.

Micro Parts typically closes for approximately two weeks at the end of the year for the holidays. At a company gathering on December 19, 2024, Micro Parts' owner told employees to return to work on the first Monday of 2025—January 6. Relator did not return to work on January 6 and did not notify Micro Parts that he would be absent. The owner then attempted to contact relator by phone multiple times in January.

At the hearing before the ULJ, Micro Parts presented evidence that it discharged relator on January 21 for failing to return to work without notice after the holiday break. On March 3, relator called Micro Parts and asked about returning to work. The owner told relator that he had been discharged and no work was available. Micro Parts has contended throughout these proceedings that, during that March 3 conversation, relator said that he had been traveling outside the country.

Relator's account differs from that of Micro Parts in several respects. Relator asserts that he was discharged in early January and he notes that his last paycheck and a W-2 were mailed to him around that time.

Respondent Department of Employment and Economic Development (DEED) issued a determination of ineligibility on May 13, 2025, denying unemployment benefits because relator was discharged for employment misconduct. Relator appealed DEED's decision to a ULJ. The ULJ affirmed the denial of unemployment benefits, concluding that relator had been discharged for employment misconduct, and again affirmed on reconsideration. Relator now appeals by writ of certiorari on the grounds that the ULJ improperly credited Micro Parts' evidence and rejected relator's evidence about the circumstances of his separation from employment.

DECISION

"We review de novo a ULJ's determination that an applicant is ineligible for unemployment benefits. And we review findings of fact in the light most favorable to the ULJ's decision and will rely on findings that are substantially supported by the record." *Fay v. Dep't of Emp. & Econ. Dev.*, 860 N.W.2d 385, 387 (Minn. App. 2015) (quotation omitted). "This court . . . gives deference to the credibility determinations made by the ULJ." *McNeilly v. Dep't of Emp. & Econ. Dev.*, 778 N.W.2d 707, 710 (Minn. App. 2010) (quotation omitted). "When the parties have presented conflicting evidence on the record, this court must defer to the [ULJ's] ability to weigh the evidence; we may not weigh that evidence on review." *Whitehead v. Moonlight Nursing Care, Inc.*, 529 N.W.2d 350, 352 (Minn. App. 1995). Relator argues that the ULJ wrongly credited Micro Parts' account

and evidence, despite his objections that the evidence was inconsistent and falsified, and therefore improperly concluded that he committed employment misconduct.

Relator primarily challenges the ULJ's decision by asserting that Micro Parts' owner was not credible and that the evidence the ULJ relied on, especially the owner's phone logs, was falsified. In support of this argument, relator attached as an addendum to his brief before this court an apparent phone log of calls with a single call between him and Micro Parts. Relator did not present this evidence to the ULJ. That attachment is not part of the record on appeal and we may not consider it. *See Ward v. Delta Airlines*, 973 N.W.2d 649, 653 (Minn. App. 2022) (citing *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988)) (declining to review issues not raised before the ULJ), *rev. denied* (Minn. June 21, 2022). We defer to "the credibility determinations made by the ULJ." *McNeilly*, 778 N.W.2d at 710 (quotation omitted). When credibility "has a significant effect on the outcome of a decision," the ULJ must explain why it credited one witness over another. Minn. Stat. § 268.105, subd. 1a(a) (2024); *see also Ywsfw v. Teleplan Wireless Servs., Inc.*, 726 N.W.2d 525, 531-32 (Minn. App. 2007).

Here, the ULJ explained their credibility decision. The ULJ found the owner's testimony "more consistent and responsive" than relator's testimony and further found the owner's testimony supported by the phone logs. That is an appropriate basis for a credibility determination, including whether the testimony is reasonable when compared with other evidence. *Id.* at 533; *see Saif Food Mkt. v. Comm'r, Dep't of Health*, 664 N.W.2d 428, 430-31 (Minn. App. 2003) (crediting a witness's testimony because it was corroborated by other testimony and evidence, while discrediting a different witness's

testimony because the asserted facts did not support that witness’s testimony). The record also supports the ULJ’s reasoning: Micro Parts’ owner gave a consistent account of the holiday party and return-to-work date after the holiday shutdown, his efforts to reach relator when relator did not return, and the later communications between the two. And the owner’s phone log reflected outgoing calls on the dates he described in January and February, and then the call on March 3. On this record, relator’s allegation that the phone log was falsified amounts to a request that we reweigh testimony and disturb the ULJ’s credibility determination, which is something we cannot do. *See McNeilly*, 778 N.W.2d at 710; *Whitehead*, 529 N.W.2d at 352.

We view the ULJ’s factual findings in the light most favorable to the decision and will not disturb them if supported by substantial evidence. Minn. Stat. § 268.105, subd. 7(d) (2024); *see also Stagg v. Vintage Place Inc.*, 796 N.W.2d 312, 315 (Minn. 2011). Substantial evidence means “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Dourney v. CMAK Corp.*, 796 N.W.2d 537, 539 (Minn. App. 2011) (quotation omitted).

Viewing the factual findings in the light most favorable to the decision, we conclude that the ULJ’s central findings—that relator was instructed to return to work on January 6, did not report on that date, and did not provide notice to Micro Parts—are supported by substantial evidence. The mere fact that relator offered a different explanation of events to the ULJ and to us does not render the ULJ’s finding unsupported. When the ULJ resolves conflicts in testimony and explains why it credited one version of events over another,

substantial-evidence review requires deference to that resolution. *Bangtson v. Allina Med. Grp.*, 766 N.W.2d 328, 332 (Minn App. 2009).

Accordingly, substantial evidence in the record supports the ULJ's determination that relator was discharged for employment misconduct. A person discharged for employment misconduct generally is ineligible for unemployment benefits. Minn. Stat. § 268.095, subd. 4 (2024). "Employment misconduct" is "any intentional, negligent, or indifferent conduct, on the job or off the job, that is a serious violation of the standards of behavior the employer has the right to reasonably expect of the employee." Minn. Stat. § 268.095, subd. 6(a) (2024). This statutory definition is exclusive. *Id.* (e) (2024); see *Wilson v. Mortg. Res. Ctr., Inc.*, 888 N.W.2d 452, 458 (Minn. 2016). And the focus is on the employee's conduct, not the employer's. *Stagg*, 796 N.W.2d at 316.

An employer has the right to reasonably expect an employee to report to work as scheduled, and even a single unexcused absence may constitute misconduct, depending on the circumstances. See *Hanson v. Crestliner, Inc.*, 772 N.W.2d 539, 543 (Minn. App. 2009). Employers also have the right to expect employees to comply with reasonable directives, and "refusing to abide by an employer's reasonable policies and requests" generally amounts to disqualifying misconduct. *Schmidgall v. FilmTec Corp.*, 644 N.W.2d 801, 804 (Minn. 2002).

Here, the ULJ found that Micro Parts directed relator to return to work on January 6, 2025, and that relator failed to return to work or notify Micro Parts of his absence. Substantial evidence supports the ULJ's finding that relator violated the standards of behavior Micro Parts could reasonably expect by failing to return to work when directed.

Relator also argues that he should receive unemployment benefits because he earned them and that Micro Parts failed to pay him an amount he was owed through a profit-sharing program. First, relator is not entitled to unemployment benefits, regardless of his employment tenure. *See* Minn. Stat. § 268.069, subd. 2 (2024) (“There is no presumption of entitlement or nonentitlement to unemployment benefits.”), subd. 1 (2024) (explaining the requirements to receive unemployment benefits). Second, DEED lacks the authority to compel Micro Parts to distribute profits from its profit-sharing program. *See id.*, subd. 2 (“An application for unemployment benefits is not considered a claim against an employer but is considered a request for unemployment benefits from the trust fund.”). DEED only pays unemployment benefits to an applicant who meets the statutory requirements and those benefits are paid from a state unemployment trust fund, not the employer. *See id.*, subd. 1; Minn. Stat. § 268.194, subd. 1 (2024).

Because relator’s arguments on appeal largely depend on rejecting the ULJ’s credibility determinations and reweighing conflicting evidence, and because the misconduct determination flows directly from the ULJ’s findings that are supported by substantial evidence, we affirm.

Affirmed.