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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1530**

Andrew Schaffhausen,
Relator,

vs.

Barnett Chrysler-Plymouth,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed June 8, 2026
Affirmed
Rasmusson, Judge**

Department of Employment and Economic Development
File No. 51665390-3

Andrew Schaffhausen, Minneapolis, Minnesota (self-represented relator)

Barnett Chrysler-Plymouth, White Bear Lake, Minnesota (respondent employer)

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

Considered and decided by Larkin, Presiding Judge; Cochran, Judge; and
Rasmusson, Judge.

NONPRECEDENTIAL OPINION

RASMUSSEN, Judge

Relator-employee challenges the determination of an unemployment-law judge (ULJ) that he is ineligible for unemployment benefits, arguing that the ULJ erred by concluding that his absences constituted employment misconduct and by failing to support the decision with substantial evidence. We affirm.

FACTS

In October 2024, relator-employee Andrew Schaffhausen began working for respondent-employer Barnett Chrysler-Plymouth (BCP) as a full-time service advisor. His duties included answering customer calls, writing repair orders, submitting paperwork for insurance claims, and providing customer service.

BCP's employee handbook included an absenteeism policy under which employees were expected to report for work as scheduled and to request and receive advance approval from their supervisor for any anticipated absence. Before his employment began, Schaffhausen received a copy of BCP's employee handbook and signed paperwork confirming that he read it.

In the five months that Schaffhausen worked at BCP, he was absent from, tardy for, or left early from 12 shifts. For most of these absences, Schaffhausen either failed to notify BCP before his scheduled shift or notified his direct supervisor immediately before his scheduled start time.

Schaffhausen arrived at work late on November 5, 2024, after attempting to vote. He had not arranged to be late or given advance notice to his direct supervisor about the

possibility of being late that morning. On various days between December 2024 and March 2025, Schaffhausen either arrived late or left early to care for his children. These unapproved absences stemmed from illnesses, daycare closures, or scheduled doctor's appointments. On March 24, 2025, Schaffhausen was absent from work the entire day without approval due to his own doctor's appointment. Although Schaffhausen acknowledged that he could have notified BCP of the scheduled doctor's appointments and arranged for time off, he did not do so. On March 28, Schaffhausen left work early to attend to his wife's ailing grandmother. BCP discharged Schaffhausen on March 31.

Schaffhausen applied for unemployment benefits, but respondent Department of Employment and Economic Development (DEED) issued a determination that he was ineligible for benefits because the reason for his discharge was employment misconduct.

Schaffhausen appealed DEED's determination of ineligibility. A ULJ held a hearing on the issue of whether Schaffhausen was discharged for employment misconduct. At the hearing, the ULJ heard testimony from Schaffhausen, BCP's human-resources manager, and Schaffhausen's direct supervisor. The ULJ admitted six exhibits into evidence.

The ULJ determined that Schaffhausen had been discharged for employment misconduct and, therefore, was ineligible for unemployment benefits. The ULJ reasoned that "Schaffhausen's failure to plan and his last-minute communication showed indifference to the employer's reasonable standards. The violation was serious because the employer had little chance to plan for Schaffhausen's absences and tardy arrivals."

Schaffhausen requested reconsideration of the ULJ’s decision, arguing that he “showed up and worked hard,” any absenteeism or tardiness was attributable to “unavoidable attendance issues,” and the employer had provided insufficient evidence of his absenteeism or tardiness. In an order of affirmation, the ULJ upheld Schaffhausen’s disqualification from receiving unemployment benefits. The ULJ explained that Schaffhausen had “provided no new information or arguments that would likely change the outcome or show the testimony from the hearing was false or likely false.” The ULJ further explained that BCP “discharged Schaffhausen because of his attendance record—and not work performance.” The ULJ affirmed that “Schaffhausen failed to plan and communicated poorly, resulting in unexpected absences and tardy arrivals” such that “[h]is conduct was indifferent and impacted the workplace” and constituted employment misconduct.

This certiorari appeal follows.

DECISION

When a ULJ has denied an applicant unemployment benefits, this court—on review—may affirm the decision, remand it for further proceedings, or reverse or modify it “if the substantial rights of the [relator] may have been prejudiced because the findings, inferences, conclusion, or decision” were, as relevant here, unsupported by substantial evidence, affected by an error of law, or otherwise arbitrary and capricious. Minn. Stat. § 268.105, subd. 7(d) (2024).

An applicant is ineligible for unemployment benefits if they are discharged due to employment misconduct. Minn. Stat. § 268.095, subd. 4(1) (2024). “Employment

misconduct” is defined as “any intentional, negligent, or indifferent conduct . . . 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). The statutory definition of employment misconduct specifically exempts certain conduct and circumstances. *See id.*, subd. 6(b) (2024) (exempting, for example, “absence, with proper notice to the employer, in order to provide necessary care because of the illness, injury, or disability of an immediate family member of the applicant”).

In this case, the ULJ determined that BCP discharged Schaffhausen due to employment misconduct and that Schaffhausen was, therefore, ineligible for unemployment benefits. Schaffhausen challenges the ULJ’s decision, and he articulates the question on appeal as “[w]hether the employer met its burden of proving that the applicant committed employment misconduct under Minn. Stat. § 268.095 based on alleged tardiness.”¹ However, “[a]n applicant’s entitlement to unemployment benefits must be determined based upon that information available without regard to a burden of proof.” Minn. Stat. § 268.069, subd. 2 (2024). We thus understand Schaffhausen to argue that the ULJ erred in concluding that his conduct constituted employment misconduct and that this conclusion is not supported by substantial evidence.

¹ In other sections of his brief, Schaffhausen cites Minn. Stat. § 268.105, subd. 1(d) (2024), for the proposition that “[t]he employer bears the burden of proving that the applicant is disqualified from receiving unemployment benefits.” There is no subparagraph (d) under subdivision 1 of Minnesota Statutes section 268.105, and no other provision within the cited statute supports that proposition.

“Whether an employee engaged in conduct that disqualifies the employee from unemployment benefits is a mixed question of fact and law.” *Stagg v. Vintage Place Inc.*, 796 N.W.2d 312, 315 (Minn. 2011) (quotation omitted). “Determining whether a particular act constitutes disqualifying misconduct is a question of law that [appellate courts] review de novo.” *Id.* Whether the employee committed a particular act is a question of fact. *See id.* Appellate courts review the ULJ’s “factual findings in the light most favorable to the decision and should not disturb those findings as long as there is evidence in the record that reasonably tends to sustain them.” *Id.* (quotation omitted).

A. Schaffhausen’s absenteeism and tardiness constituted employment misconduct.

Schaffhausen first argues that the ULJ erred in determining that his absenteeism and tardiness constituted employment misconduct.

Whether an applicant’s absenteeism and tardiness constitute employment misconduct is a case-specific inquiry. *Id.* at 316; *see also Ress v. Abbott Nw. Hosp., Inc.*, 448 N.W.2d 519, 524 (Minn. 1989) (listing examples of employment misconduct). But “[a]s a general rule, refusing to abide by an employer’s reasonable policies and requests amounts to disqualifying misconduct.” *Schmidgall v. FilmTec Corp.*, 644 N.W.2d 801, 804 (Minn. 2002). For example, the supreme court has held that an employee’s absences constituted employment misconduct where the employer “had an absenteeism and tardiness policy of which [the employee] was aware” and where the employee “was aware that he was expected to follow that policy.” *Stagg*, 796 N.W.2d at 317.

Here, like in *Stagg*, BCP had a policy that required employees to report for work as scheduled and to request and receive advance approval from their supervisor for any

anticipated absence. As the ULJ noted, “[i]f employees knew about scheduling conflicts in advance or wanted to pre-arrange time off, BCP’s attendance policy allowed requests for excused absences from work.” The ULJ found that this policy was reasonable and that “Schaffhausen knew BCP’s attendance practices.” The ULJ determined that, therefore, “Schaffhausen’s failure to plan and his last-minute communication showed indifference to the employer’s reasonable standards. The violation was serious because the employer had little chance to plan for Schaffhausen’s absences and tardy arrivals.”

Schaffhausen does not argue that any of the statutory exemptions apply here. Instead, he relies on *Stagg* for the proposition that “[m]inor or isolated tardiness, particularly where notice is given, does not constitute misconduct.” This argument fails for two reasons. First, *Stagg* does not support this proposition. There, the supreme court concluded that an employee was discharged for employment misconduct where the employer “had an absenteeism and tardiness policy of which [the employee] was aware,” the employee “was aware that he was expected to follow that policy,” and the employee “failed to follow that policy on at least five occasions.” *Id.* The court’s opinion says nothing about “minor or isolated tardiness.” Second, even if *Stagg* supported this proposition, the ULJ found that Schaffhausen was absent, tardy, or left work early 12 times within the course of five months. To the extent Schaffhausen means to argue that his absenteeism and tardiness was “minor or isolated” such that it did not constitute employment misconduct, he offers no authority supporting such a conclusion, and the record does not support it. Accordingly, we conclude that the ULJ did not err in

determining that Schaffhausen’s absenteeism and tardiness constituted employment misconduct.

B. The ULJ’s decision was supported by substantial evidence.

Schaffhausen next argues that the ULJ’s decision was not supported by substantial evidence.

“[S]ubstantial evidence has been defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Gonzalez Diaz v. Three Rivers Cmty. Action, Inc.*, 917 N.W.2d 813, 816 n.4 (Minn. App. 2018) (emphasis omitted) (quotation omitted). When the record contains conflicting evidence, we must defer to the ULJ’s weighing of that evidence and “may not weigh [the] evidence on review.” *Whitehead v. Moonlight Nursing Care, Inc.*, 529 N.W.2d 350, 352 (Minn. App. 1995). We review “factual findings in the light most favorable to the decision.” *Dourney v. CMAK Corp.*, 796 N.W.2d 537, 539 (Minn. App. 2011).

“When the credibility of a witness . . . has a significant effect on the outcome of a decision, the [ULJ] must set out the reason for crediting or discrediting [the witness’s] testimony.” Minn. Stat. § 268.105, subd. 1a(a) (2024). We must then defer to the ULJ’s credibility determinations. *Dourney*, 796 N.W.2d at 539.

Much of the evidence in the record is consistent with the ULJ’s decision. The ULJ found that Schaffhausen’s direct supervisor’s testimony was credible and that Schaffhausen’s testimony about the unavoidability of his absences or tardy arrivals was not credible. And, as required by statute, the ULJ explained the reasons for these credibility determinations. *See* Minn. Stat. § 268.105, subd. 1a(a). The ULJ reasoned that

Schaffhausen’s direct supervisor “was clear and direct about the reasons for Schaffhausen’s discharge” and “was also consistent with the employer’s written submissions” to DEED, “indicating that Schaffhausen was discharged for attendance problems.” The ULJ credited the direct supervisor with providing “first-hand information about texting with Schaffhausen when Schaffhausen was absent or late” and describing “reasonable workplace practices.” In contrast, the ULJ found Schaffhausen’s “testimony about his absences or tardy arrivals being [un]avoidable”² to be “not credible” because it was “inconsistent with the other specific information he provided about why he missed work.” Given that the ULJ provided the reasons for these credibility determinations, we defer to them. *Dourney*, 796 N.W.2d at 539. And because the witness testimony supports the ULJ’s decision, we conclude that the ULJ’s decision was supported by substantial evidence. *See Gonzalez Diaz*, 917 N.W.2d at 816 n.4.³

Affirmed.

² Based on Schaffhausen’s testimony during the hearing and the arguments he presents to our court, it is clear that the ULJ intended to state “unavoidable” rather than “avoidable.”

³ Schaffhausen notes that “[o]ne date cited by the employer involved [his] lawful right to vote.” He argues that “[t]his date cannot legally support a misconduct finding” because “Minnesota law expressly protects employees from penalty or discipline for time taken to vote.”

Minnesota employees have “the right to be absent from work for the time necessary to appear at the employee’s polling place, cast a ballot, and return to work on the day of that election . . . without penalty . . . because of the absence.” Minn. Stat. § 204C.04, subd. 1 (2024). The statutory language does not state whether an employee needs to give their employer notice of their intent to exercise this right, and no Minnesota appellate court has had the occasion to decide this issue. But, even assuming that the ULJ erred by including Schaffhausen’s November 5 absence in its employment-misconduct determination, the other dates discussed in the ULJ’s order provide substantial evidence to support the determination.