

*This opinion is nonprecedential except as provided by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
A25-1795**

Erik Schmid,
Relator,

vs.

Greenhaven Elementary,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed July 20, 2026
Affirmed
Rasmusson, Judge**

Department of Employment and Economic Development
File No. 51551383-4

Erik Schmid, Hibbing, Minnesota (self-represented relator)

Greenhaven Elementary, Hibbing, 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 Bond, Presiding Judge; Johnson, Judge; and Rasmusson,
Judge.

NONPRECEDENTIAL OPINION

RASMUSSEN, Judge

Relator-employee challenges the determination of an unemployment-law judge (ULJ) that he was ineligible for unemployment benefits, arguing that the ULJ erred by concluding that he was discharged for failure to obtain required licensure and insubordination rather than districtwide budget cuts. Because relator forfeited a portion of his argument on appeal and the record reasonably supports the ULJ's determination, we affirm.

FACTS

From March 13, 2017, to February 1, 2025, relator-employee Erik Schmid worked for Independent School District No. 701, generally known as Hibbing Public Schools. In July 2022, Schmid applied for a fireman-custodian position at respondent-employer Greenhaven Elementary, a school within the district. The posted job description required that applicants possess a Class C license within 13 months of the start date.¹ Schmid did not possess a Class C license when he applied for the position, and he knew when he accepted the job that he must obtain the licensure by October 2023.

To obtain a Class C license, Schmid needed to (1) hold a Special Engineer license, (2) have 12 months of relevant boiler experience,² (3) receive an affidavit from a manager

¹ District staff testified that the school was required to have a staff member with such licensure because it has a boiler with an engine of more than 50 horsepower.

² The record suggests that an individual must obtain the Special Engineer license before obtaining the relevant boiler experience.

stating that he possessed the relevant boiler experience, and (4) pass a licensure exam. Schmid had the option to take preparatory classes and receive study materials to assist him in passing the licensure exam, but neither were required to obtain a Class C license.

On September 13, 2023, Schmid obtained his Special Engineer license, but he had not completed the other prerequisites for obtaining a Class C license. Around this time, Schmid's supervisor reminded him that he still needed to obtain the Class C license. Greenhaven Elementary extended the deadline for Schmid to obtain the license until October 1, 2024.

Between September 2023 and September 2024, Schmid operated the boiler at Greenhaven Elementary, thereby meeting the necessary experience required before taking the licensure exam. During this time, Schmid's supervisor provided him with multiple reminders about the availability of preparatory classes for the licensure exam. On September 10, 2024, Schmid's supervisor again reminded him that he needed to obtain the Class C license to maintain his position, and that, beginning on September 12, 2024, he would be eligible to take the licensure exam.

As of the extended deadline of October 1, 2024, Schmid still had not taken the licensure exam. He therefore did not possess a Class C license. Greenhaven Elementary suspended Schmid for one day for failure to meet the deadline but gave him an additional extension until December 31, 2024.

On December 3, 2024, Greenhaven Elementary sent Schmid a letter to remind him that he needed to obtain the Class C license by the end of the month. On December 11, Schmid responded to his supervisor by email, advising that he planned to take a preparatory

class for the licensure exam the following summer. Based on Schmid's representation that he would not take the licensure exam before the twice-extended December 31 deadline, Greenhaven Elementary gave Schmid a notice of intent to discharge and placed him on paid suspension on December 17, 2024. The notice listed two reasons for discharge: failure to obtain the Class C license and insubordination stemming from Schmid's statements that the license was unnecessary. On February 1, 2025, Greenhaven Elementary placed Schmid on indefinite, unpaid suspension. This is considered his discharge date pursuant to Minn. Stat. § 268.095, subd. 5(b) (2024).

Schmid applied for unemployment benefits. Respondent Minnesota Department of Employment and Economic Development (DEED) determined that Schmid was ineligible for unemployment benefits because Greenhaven Elementary discharged him for employment misconduct. Schmid administratively appealed.

At an evidentiary hearing, the ULJ heard testimony from Schmid, the district superintendent, and Schmid's supervisor. The ULJ also received exhibits, including emails and letters. Several days after the hearing, the ULJ issued its order determining that Schmid was ineligible for unemployment benefits because he was discharged for employment misconduct. In the decision, the ULJ made credibility determinations, finding that "[o]verall, Schmid lacked credibility," and his testimony was "unreliable" because he "frequently avoided answering straightforward questions by giving nonresponsive answers or answers to questions that had not been asked."

Relevant to this appeal, the ULJ found that Greenhaven Elementary discharged Schmid because "Schmid refused to take steps toward obtaining the Class C license by

December 31, 2024,” and “insubordination; i.e., the employer believed that since December 17, 2024, Schmid continued to contact school board members about his dispute with the employer over the Class C license.” The ULJ expressly found that “Schmid was not discharged for any other reason.” The ULJ determined that “[t]he Hibbing public schools had the right to expect that Schmid would take steps toward obtaining the Class C license. This expectation was reasonable because it was contained in the job description, and the employer reminded Schmid about this many times.” The ULJ concluded that Schmid’s failure to obtain the license “was a serious violation of the standards of behavior the employer has the right to reasonably expect of the employee,” and thus Schmid was discharged for employment misconduct and was ineligible for unemployment benefits.

Schmid filed a request for reconsideration. His arguments largely repeated those he presented during the evidentiary hearing. He also argued that the school board mishandled his official employment separation at a June 2025 meeting. The ULJ determined that Schmid’s arguments were either made during the evidentiary hearing or were not relevant to the issue before the ULJ such that “Schmid [had] not provided any information or arguments that require changing the decision or ordering another hearing.” In an order of affirmation, the ULJ upheld Schmid’s ineligibility to receive unemployment benefits, concluding that it was “factually and legally correct.”

Schmid appeals by writ of certiorari.

DECISION

When a ULJ has denied an applicant unemployment benefits, appellate courts—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” are, among other reasons, unsupported by substantial evidence, affected by an error of law, or arbitrary and capricious. Minn. Stat. § 268.105, subd. 7(d) (2024).

Unemployment benefits provide financial assistance to individuals discharged from employment “through no fault of their own.” *Stagg v. Vintage Place Inc.*, 796 N.W.2d 312, 315 (Minn. 2011) (quotation omitted). Employees discharged because of “employment misconduct” are ineligible for unemployment benefits. Minn. Stat. § 268.095, subd. 4(1) (2024). “Employment misconduct” is defined by statute as “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.” *Id.*, subd. 6(a) (2024). Generally, an employee’s refusal to comply with an employer’s reasonable policy is considered employment misconduct, and a “single incident can constitute misconduct when an employee deliberately chooses a course of conduct that is adverse to the employer.” *Schmidgall v. FilmTec Corp.*, 644 N.W.2d 801, 804, 806 (Minn. 2002).

In this case, the ULJ found that Greenhaven Elementary discharged Schmid due to his failure to obtain required licensure and insubordination. The ULJ determined that these acts constitute disqualifying employment misconduct. *See* Minn. Stat. § 268.095, subd. 6 (2024) (defining employment misconduct). On appeal, it appears that Schmid challenges the ULJ’s findings related to the reason for his termination. Schmid argues that the ULJ should have found that Greenhaven Elementary laid him off because of alleged districtwide

budget cuts rather than his failure to obtain required licensure or insubordination.³ Schmid also contends that the ULJ erred in determining that he was discharged for misconduct.

As a preliminary matter, Schmid's argument regarding budget cuts is presented for the first time on appeal and therefore the ULJ could not and did not consider it. "A reviewing court must generally consider only those issues that the record shows were presented [to] and considered by the [district] court in deciding the matter before it." *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (quotation omitted); *see also Ward v. Delta Airlines*, 973 N.W.2d 649, 653 (Minn. App. 2022) (applying *Thiele* to an argument not presented to or considered by a ULJ), *rev. denied* (Minn. June 21, 2022). Because the ULJ did not address this argument in its decision, it is not properly before us. Accordingly, we decline to address it.

We next turn to the issue of Schmid's discharge. We interpret Schmid as implicitly arguing that the ULJ erred in determining that he was discharged for employment misconduct. The employer's reason for discharging an employee presents a question of fact for the ULJ to resolve. *See Harringer v. AA Portable Truck & Trailer Repair, Inc.*, 379 N.W.2d 222, 223-24 (Minn. App. 1985). When the reason for the discharge is

³ In his brief to our court, Schmid appears to quote from several news sources that discuss "budget cuts" made by the school board and a purported memorandum authored by Schmid's supervisor discussing a "budget deficit." These documents are not contained in the record on appeal, and thus we do not consider them. *See* Minn. R. Civ. App. P. 110.01 ("The documents filed in the trial court, the exhibits, and the transcript of the proceedings, if any, shall constitute the record on appeal in all cases."). It is also worth noting that the dates Schmid attributes to these articles postdate his discharge by several months. This timing undermines Schmid's argument that his discharge was due to any layoffs based on districtwide budget cuts.

disputed, the ULJ must review and weigh the evidence and assess credibility to determine the reasons for discharge. *Id.*; see also *Scheunemann v. Radisson S. Hotel*, 562 N.W.2d 32, 34 (Minn. App. 1997) (stating that the fact-finder is “obligated to weigh the evidence, determine credibility, and make a determination on the reasons for the discharge”). Appellate courts then 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.” *Stagg*, 796 N.W.2d at 315 (quotation omitted).

On December 17, 2024, Greenhaven Elementary expressed its intent to discharge Schmid in a letter, explaining that:

In July 2022, you accepted the position of fireman custodian at Greenhaven Elementary School. The position of fireman custodian required that you obtain a 2nd Class C boiler license within thirteen months of August 3, 2022. It has been approximately twenty-nine months since you accepted the position, and you still have not obtained the required license after having several opportunities to do so. As a result, you are unqualified for, and incompetent to perform, the position of fireman custodian at Greenhaven Elementary School.

The letter also discussed “insubordination and misconduct in [Schmid’s] communications” as a basis for termination. The superintendent’s testimony during the evidentiary hearing was consistent with the reasons given in this letter. For example, the superintendent testified that Schmid’s failure to obtain “the licensure [was] definitely the primary factor” in the school district’s decision to terminate his employment, but “a contributing factor” was “Schmid’s attitude and . . . the very slow nature he took in pursuing any type of licensure.” This evidence in the record supports the ULJ’s factual finding that Schmid was

discharged because of his failure to obtain required licensure and insubordination. Accordingly, we will not disturb this finding. *Id.*

We affirm the ULJ's decision that Schmid was discharged for employee misconduct. As a result, Schmid was not entitled to unemployment benefits.

Affirmed.