This opinion is nonprecedential except as provided by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
A25-2061

Shakitha Jones,
Relator,

vs.

V & J Employment Services,
Respondent,

Department of Employment and Economic Development,
Respondent.

Filed July 13, 2026
Affirmed
Reilly, Judge*

Department of Employment and Economic Development
File No. 52048736-3

Shakitha Jones, Brooklyn Park, Minnesota (pro se relator)

V & J Employment Services, Milwaukee, Wisconsin (respondent employer)

Rebecca Wittmer, Melannie Markham, Minnesota Department of Employment and Economic Development, St. Paul, Minnesota (for respondent department)

Considered and decided by Bond, Presiding Judge; Rasmusson, Judge; and Reilly, Judge.

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

NONPRECEDENTIAL OPINION

REILLY, Judge

Relator Shakitha Jones challenges the denial of her claim for unemployment benefits on the grounds that the unemployment-law judge (ULJ) erred by concluding that she was discharged for employment misconduct. Because the ULJ's determination is supported by substantial evidence in the record, we affirm.

FACTS

Jones was employed by respondent V&J Employment Services as the manager of an Auntie Anne's franchise store, which sells prepared food at the Eden Prairie mall. As manager, Jones was responsible for the day-to-day operations of the store including opening and closing the store, ensuring adequate inventory, hiring and training staff, and preparing the store for inspections. Jones typically worked Monday through Saturday from around 8:30 a.m. until 8:30 p.m. Because of her heavy workload, Jones did not ordinarily schedule herself to work on Sunday.

V&J had contracts with the Eden Prairie mall and Auntie Anne's requiring that the store be open during mall business hours from 10:00 a.m. until 8:00 p.m. V&J had a corresponding company policy requiring the store to be open during these hours and requiring store managers to communicate with senior management if the store could not be opened.

In April and June 2025, the store was closed on five occasions when it was scheduled to be open. On Sunday, April 6, the store did not open because the regularly scheduled employee tested positive for an illness prior to his shift. Jones did not cover the shift. On Monday, April 7, Jones called in sick because of acute chest pain, for which she received medical treatment. On April 8, Jones received a written reprimand from V&J stating that the store had been closed for two days in a row without approval. Later, V&J acknowledged that the closure on April 7 was not misconduct because Jones was ill and had notified management before closing the store. On Sunday, June 15, a staff member had been scheduled to open the store but, five days before the shift, he informed Jones that he was resigning. Jones notified her supervisor of the employee's resignation but did not otherwise cover the shift or inform senior management that the store would be unable to open. On Sunday, June 22, the store was closed during regular business hours because of a shortage of staff. On Sunday, June 29, Jones had been scheduled to open the store and train a new employee. Before the shift, the employee informed Jones that he would be unable to work the shift. Because Jones did not normally work on Sundays, she decided not to open the store after she learned that the employee would not be present for training.

Other than the instance when Jones called in sick, V&J learned of the unauthorized closures after the fact upon review of sales reports or notification from the mall. V&J discussed the issue with Jones several times and sent her two formal warnings regarding unauthorized store closure. Following the unauthorized closure on June 29, V&J discharged Jones.

In July 2025, Jones filed an unemployment benefits request with respondent Minnesota Department of Employment and Economic Development (DEED). The next month, DEED issued a determination concluding that Jones is ineligible for unemployment benefits because she was discharged for employment misconduct. Jones appealed the ineligibility determination to the ULJ.

In September 2025, the ULJ conducted a remote evidentiary hearing on Jones's appeal. Jones appeared and testified on her own behalf. V&J's human-resources director appeared on behalf of the employer. Several days later, the ULJ issued a decision concluding that Jones had been discharged by V&J for employee misconduct and was not eligible for unemployment benefits.

The ULJ found that Jones was "responsible for creating the store's staffing schedule and to ensure that the store was staffed from open to close each day." The ULJ found that V&J has the right to reasonably expect store managers to schedule employees to open and close the store, and to communicate about any store closures based on staffing issues. The ULJ found that Jones's failure to open the store after she called in sick did not constitute employee misconduct, in part because she "properly notified her employer of her absence." However, the ULJ found that, on two days in April and three days in June, Jones knew the store was supposed to be open, did not open the store, and "negligently failed to notify her supervisor that she did not have sufficient staff to open the store." The ULJ concluded that "Jones'[s] failure to notify her supervisor that she did not have the staff to open the store . . . was negligent and indifferent to the standards of behavior the employer has a right to reasonably expect and was employment misconduct." Accordingly, the ULJ determined that Jones was ineligible for unemployment benefits.

The next day, Jones filed a request for reconsideration. In November 2025, the ULJ issued an order affirming its September 17 decision. In December 2025, Jones filed this certiorari appeal.

DECISION

Jones raises three arguments on appeal. First, Jones argues that the ULJ erred in determining that she was discharged for employee misconduct. Second, Jones challenges the ULJ's factual finding that the store was closed on April 8 and April 9. Third, Jones argues that the closures on June 15, June 22, and June 29 did not constitute misconduct.

Unemployment benefits are intended to provide financial assistance to persons who have been discharged from employment "through no fault of their own." *Stagg v. Vintage Place Inc.*, 796 N.W.2d 312, 315 (Minn. 2011) (quotation omitted). A person discharged from employment because of "employment misconduct" is ineligible for unemployment benefits. Minn. Stat. § 268.095, subd. 4(1) (2024). "Employment misconduct" is defined by statute to mean "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). In general, an employee's refusal to comply with an employer's reasonable policy is 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). We apply a de novo standard of review to a ULJ's determination that an applicant's conduct constitutes disqualifying misconduct. Minn. Stat. § 268.105, subd. 7(d)(4) (2024); *Stagg*, 796 N.W.2d at 315.

Jones first contends that the ULJ erred in its determination that she was discharged for employee misconduct. An employee's conduct satisfies the statutory standard of employment misconduct if the employee "refus[es] to abide by an employer's reasonable policies and requests." *Schmidgall*, 644 N.W.2d at 804. In this case, the ULJ found that the human-resources director credibly testified that it is V&J's company policy that store managers inform management if the store cannot open. This policy was communicated to Jones several times. On April 8, Jones received a formal warning stating that the "store was closed for two days in a row without communication or approval." On June 23, Jones received a similar warning for failing to open the store on June 15 and June 22 "without getting approval." Jones confirmed that she knew that she was "required to make sure the store is open and, if not, to communicate it to management." Jones further confirmed that she had been told that, if she could not open the store, she had to let someone know.

V&J's policy that store managers communicate with senior management if they cannot open the store is reasonable. Reasonableness varies by the circumstances of the case. *Sandstrom v. Douglas Mach. Corp.*, 372 N.W.2d 89, 91 (Minn. App. 1985). In these circumstances, the policy is reasonable because it requires only that Jones communicate to senior management when she could not open the store during regular business hours. Rather than requiring Jones to cover the shift, the policy required Jones only to provide information to V&J so that V&J can "adequately plan its staffing needs." *Cf. Winkler v. Park Refuse Serv., Inc.*, 361 N.W.2d 120, 123 (Minn. App. 1985) (concluding that it is reasonable for an employer to require a notification from an employee so that the employer can adequately plan for its staffing needs).

Jones could have complied with V&J's reasonable policy but declined to do so several times. Jones testified that she was aware of the policy, and that she communicated with senior management via phone call or text about store issues numerous times each week. Despite frequent communications, V&J did not learn of the unauthorized closures until after the fact, upon review of sales reports or notification from the mall. While she acknowledged that she did not call and notify senior management prior to not opening the store, Jones testified that, in her view, her weekly schedule submissions constituted notice that the store would not be open each time.

Jones's reasoning regarding the weekly schedule is not persuasive. The two formal warnings addressing Jones's failure to communicate about two closures in April and two closures in June put her on notice that her weekly schedule submission did not constitute compliance with the policy. Additionally, her weekly schedule submission did not notify senior management that the store would be closed on June 29 because, as Jones testified, she was scheduled to work that day to train a new employee, but declined to show up when she learned that the employee could no longer come in. Accordingly, the weekly schedule submission for June 29 falsely conveyed to senior management that the store would open when, in fact, it did not.

Thus, because Jones refused to abide by V&R's reasonable notification policy on numerous occasions, including after formal warnings, the ULJ did not err in determining that Jones was discharged for employee misconduct.

Second, Jones challenges the ULJ's factual finding that the store was closed on April 8 and April 9. Whether an employee committed a particular act is a question of fact viewed in the light most favorable to the ULJ's decision and affirmed if supported by substantial evidence. *Skarhus v. Davanni's Inc.,* 721 N.W.2d 340, 344 (Minn. App. 2006). This court "may reverse or modify [a ULJ's] decision if the substantial rights of the petitioner may have been prejudiced because the [ULJ's] findings" are unsupported by substantial evidence in the record. Minn. Stat. § 268.105, subd. 7(d)(5) (2024). Jones asserts that the store was open for business on April 8 and April 9. During the evidentiary hearing, the human-resources director testified that Jones received a disciplinary write-up from V&J on April 8 noting that the store had been closed for two consecutive days. The write-up does not specify which two days the store was closed. The human-resources director testified that "I think it was April 8 and April 9." The human-resources director's recollection appears inaccurate because the write-up noting two consecutive days of closure was issued on April 8. However, this inaccuracy is inconsequential because Jones conceded that the store was closed on two consecutive days in April. Jones testified that the employee scheduled to open on Sunday, April 6, called in sick and that she called in sick on Monday, April 7. While the ULJ erred regarding the specific days the store was closed in April, this inaccuracy does not affect its conclusions that Jones did not commit misconduct when she called in sick but did commit misconduct by failing to notify senior management that there were insufficient staff to open the store on those days. Therefore, the factual error did not affect Jones's substantial rights and does not constitute reversible error. *See* Minn. Stat. § 268.105, subd. 7(d).

Third, Jones contends that the closures on June 15, 22, and 29, could not constitute misconduct. Jones argues that the June 15 and June 22 closures were caused by staffing shortages outside of her control and that her absence on June 29 was due to medical necessity. But Jones was not discharged because the store did not open; Jones was discharged because she repeatedly failed to notify the employer that the store would not be open for business, in violation of a company policy. The ULJ reasoned that

> [o]n April 8 and 9 [sic]; June 15, 22, and 29, 2025, Jones negligently failed to notify her supervisor that she did not have sufficient staff to open the store. . . . Jones' failure to notify her supervisor that she did not have the staff to open the store on April 8 and 9 [sic]; June 15, 22, and 29, 2025, was negligent and indifferent to the standards of behavior the employer has a right to reasonably expect and was employment misconduct.

As discussed above, Jones was aware of V&J's notification policy, the policy is reasonable, and Jones repeatedly failed to abide by the policy despite several opportunities to do so.

Jones argues, for the first time on appeal, that she did not open the store on June 29 because of medical restrictions placed on her by a physician on June 27. In the addendum to her brief, Jones provides new evidence not presented before the ULJ. This court rarely considers issues that were not presented to and considered by the ULJ. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating appellate courts generally must consider "only those issues that the record shows were presented and considered by the trial court" (quotation omitted)); *see also Peterson v. Northeast Bank*, 805 N.W.2d 878, 883 (Minn. App. 2011) (applying *Thiele* in an unemployment-benefits appeal). Moreover, because the evidence in Jones's addendum was not presented to the ULJ, this court may not consider it on appeal. *See* Minn. R. Civ. App. P. 110.01 (restricting record on appeal to papers filed with previous decision-maker, exhibits, and transcripts); Minn. R. Civ. App. P. 115.04, subd. 1 (providing that rule 110.01 applies to *certiorari* appeals); *McNeilly v. Dep't of Emp. & Econ. Dev.*, 778 N.W.2d 707, 709 n. 1 (Minn. App. 2010) (applying Minn. R. Civ. App. P. 110.01, 115.04).

Even if we were to consider the new evidence, it would not alter our decision because Jones was discharged for failing to notify V&J of store closures. The evidence presented before the ULJ, including Jones's testimony, indicates that on Sunday, June 29, Jones had been scheduled to open the store and train a new employee. Before the shift, the new employee notified Jones that he would be unable to work his scheduled shift. Because Jones did not normally work on Sundays, she decided not to open the store after she learned the new employee would not be present for training on that day. Jones did not notify senior management prior to not opening the store. Jones was aware of V&J's notification policy, the policy is reasonable, and Jones repeatedly failed to abide by the policy despite several opportunities to do so.

The ULJ therefore did not err in its determination that Jones was discharged for employee misconduct. As a result, Jones is not entitled to unemployment benefits.

Affirmed.