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STATE OF MINNESOTA
IN COURT OF APPEALS
A25-2066

Ann Anderson,
Relator,

vs.

Cooperative Response Center, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

Filed August 17, 2026
Affirmed
Ross, Judge

Department of Employment and Economic Development
File No. 51790384-3

Samantha Kleiser, Brianna Boone, Russell Squire, Southern Minnesota Regional Legal Services, Inc., St. Paul, Minnesota (for relator)

Gregory J. Stenmoe, Grant Gibeau, Trish Palermo, Taft Stettinius & Hollister LLP, Minneapolis, Minnesota (for 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 Bentley, Presiding Judge; Ross, Judge; and Cochran, Judge.

NONPRECEDENTIAL OPINION

ROSS, Judge

A customer-service call center discharged employee Ann Anderson after she talked over a caller and ignored the caller's several requests to speak to a supervisor, behaviors the center had previously warned Anderson to cease. An unemployment-law judge affirmed a decision by the department of employment and economic development denying Anderson's application for unemployment benefits on the ground that she was discharged for misconduct. Anderson appeals by *certiorari*. We affirm because the findings of her behavior constitute employment misconduct, no exception applies, and substantial evidence in the record supports the misconduct finding.

FACTS

Cooperative Response Center Inc. staffs and operates a telephonic customer-service call center for its utility-company clients. Cooperative Response employees answer incoming calls to address caller problems. It trains each of these employees on its customer-service expectations, including the duty to assist "irate, angry, or difficult customers professionally" without the employee interrupting or raising her voice. If a caller asks to speak to a supervisor, Cooperative Response instructs its employees that they may attempt to defuse the situation if they believe it is possible, but if the caller continues to request a supervisor, the employee must transfer the caller promptly.

Cooperative Response hired Ann Anderson in 2020. Since then, Cooperative Response twice formally placed Anderson on a performance-improvement plan after incidents in which Anderson argued with and talked over callers and ignored their requests to speak to a supervisor. Anderson completed her first performance-improvement plan in 2022 and the second in early 2025.

Anderson took the call that led to her termination in May 2025. The unemployment-law judge (ULJ) who conducted the hearing detailed the relevant circumstances of the call in the following findings of fact:

> Anderson took a customer call about an outage. Anderson directed the customer to reset the breakers at the customer's home. The customer said she and her husband had medical issues, wanted an expedited response, and could not navigate the stairs to reset the breakers. Anderson asked for more information about the customer's medical issues. The customer asked to speak to a supervisor. Anderson began explaining why more medical information would be helpful. The customer continued to ask to speak to a supervisor in a firm but not loud voice. After requesting transfer to a supervisor four times, the customer raised her volume because Anderson continued to talk over the customer. The customer then made two additional requests to speak to a supervisor before Anderson transferred the call.

Cooperative Response discharged Anderson later that month, citing "ongoing behavior concerns" that culminated in the referenced call about which her supervisors concluded that "[Anderson] fell back into old habits of being rude and argumentative." Anderson applied for unemployment benefits, and the Minnesota Department of Employment and Economic Development (DEED) deemed her ineligible because she was discharged for employment misconduct.

Anderson appealed DEED's decision and appeared before a ULJ for an evidentiary hearing where she testified to her version of events. The ULJ listened to the recorded May call. A Cooperative Response human-resources employee testified about the company's expectations and training, summarized above. She described Anderson's behavior during the subject call as serious misconduct because she talked over the caller, raised her voice, did not transfer the caller to a supervisor promptly after being asked five times, and pressed the caller for medical information that the caller clearly did not want to provide. She said that Anderson's first attempt to explain to the caller why she wanted the medical information aligned with company training but emphasized that Anderson should have understood that she was not required to get this information and should have transferred the caller sooner.

The ULJ found that Cooperative Response discharged Anderson for employment misconduct. The ULJ credited the company's testimony over Anderson's to the extent the two conflicted, and the ULJ found that Cooperative Response reasonably expected its employees to follow its training, including transferring callers to a supervisor immediately upon a second request, without argument. The ULJ concluded that Anderson's failure to meet this expectation was serious because it fit her pattern of violative behavior, affirming DEED's decision to deny Anderson's application for unemployment benefits. Anderson requested reconsideration of the ULJ's decision, and the ULJ affirmed it.

Anderson appeals by *certiorari* to this court.

DECISION

Anderson asks us to reverse the ULJ's decision that she engaged in benefits-disqualifying employment misconduct, arguing that the decision is flawed as a matter of law and as a matter of fact. An employee discharged for employment misconduct, meaning "any intentional, negligent, or indifferent conduct . . . that is a serious violation of the standards of behavior the employer has the right to reasonably expect," is ineligible to receive unemployment benefits. Minn. Stat. § 268.095, subds. 4(1), 6(a) (2024). A "serious" violation is one that is important when considering the context of the employee's job. *Wilson v. Mortg. Res. Ctr., Inc.*, 888 N.W.2d 452, 461 (Minn. 2016). We review *de novo* whether an employee's act qualifies as employment misconduct. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). Our *de novo* review satisfies us that the ULJ correctly concluded that Anderson's conduct constitutes employment misconduct.

The ULJ found that Cooperative Response discharged Anderson for failing over time to meet its expectations under several behavioral standards. The ULJ found that she engaged in misconduct by repeatedly violating Cooperative Response's reasonable expectations for its employees despite multiple warnings. *See Stagg v. Vintage Place Inc.*, 796 N.W.2d 312, 314, 317 (Minn. 2011) (explaining that an employee's pattern of breaching a known policy is a serious violation). Anderson does not dispute that Cooperative Response reasonably expected its employees to handle calls respectfully and, according to company training, to avoid talking over callers and transfer them to a supervisor upon request without delay. Cooperative Response had twice previously disciplined Anderson for violating this standard. And by violating it again in the May 2025 call, Anderson established a pattern of misbehavior serious enough to qualify as employment misconduct.

Anderson argues against this conclusion by emphasizing that she was essentially discharged for having failed to demonstrate the caller-engagement skills of de-escalation and refraining from being rude and argumentative, which Anderson describes as merely "soft skills." She maintains that "failure to meet an employer's expectations for improvement of soft skills is not employment misconduct by itself." Anderson cites no legal authority to support her implied premise that the absence of subjectively measured, so-called soft skills cannot constitute misconduct. Caselaw contradicts the premise. We have concluded, for example, that an employment-misconduct determination was supported by evidence that an employee was "rude to customers, fellow employees, and supervisory personnel." *Montgomery v. F & M Marquette Nat'l Bank*, 384 N.W.2d 602, 605 (Minn. App. 1986), *rev. denied* (Minn. June 13, 1986). We similarly concluded that a misconduct determination can rest on a finding that an employee was "aggressive and offensive with customers." *Pitzel v. Packaged Furniture & Carpet*, 362 N.W.2d 357, 357 (Minn. App. 1985). Because Cooperative Response has the right to reasonably expect its customer-service employees to be courteous and polite rather than rude and argumentative with callers, and because caselaw does not except the failure to maintain "soft skills" categorically from employment misconduct, Anderson's argument fails.

The unemployment-benefits statute does list certain conduct as exceptions from employment misconduct, and Anderson asserts that three of them apply. Whether an exception applies is a question of law we consider *de novo*. *Skarhus*, 721 N.W.2d at 343–44. Anderson argues that her conduct meets the exception for good-faith errors in judgment. *See* Minn. Stat. § 268.095, subd. 6(b)(6) (2024). But the judgment-error exception applies only to conduct that requires an employee to exercise her judgment. *Potter v. N. Empire Pizza, Inc.*, 805 N.W.2d 872, 877 (Minn. App. 2011), *rev. denied*

(Minn. Nov. 15, 2011). And Cooperative Response's expectation that its customer-service employees engage courteously and refrain from rudeness is not a matter left to employee discretion. It is doubtlessly true, as Anderson implies, that whether a person's brusque behavior crosses the line into being discourteous and rude can be a matter of a supervisor's discretionary judgment. But the question here is not whether any supervisor accurately judged the behavior as rude; it is whether Cooperative Response affords its customer-service employees discretion in deciding whether to engage customers rudely. It does not. Because Anderson's decision whether to engage rudely instead of courteously was not a decision that Cooperative Response left to her judgment, the conduct that led to her discharge does not qualify as a judgment-error exception.

Anderson argues too that her conduct meets the inefficiency or inadvertence exception. Conduct that results from an employee's "inefficiency or inadvertence" is not employment misconduct. Minn. Stat. § 268.095, subd. 6(b)(2) (2024). Anderson here cabins her failure to transfer the May 2025 caller to her supervisor quickly as a single matter of inefficiency. But we base our review on the ULJ's supported factual findings, which we construe in the light most favorable to the ULJ's decision. *Skarhus*, 721 N.W.2d at 344. And the ULJ found that Cooperative Response discharged Anderson for having failed to meet its expectations over time, involving a series of incidents of which the May 2025 call was simply the last. This finding defeats Anderson's mere-single-inefficient-incident argument.

We are not persuaded otherwise by Anderson's contention that the ULJ wrongly considered her conduct underlying her performance-improvement plans because an employee's prior unsatisfactory conduct that did not contribute to her discharge falls outside the scope of an ineligibility determination. *Lumpkin v. N. Cent. Airlines, Inc.*, 209 N.W.2d 397, 401 (Minn. 1973). The ULJ found that Anderson's pattern of shortcomings contributed to her discharge, and the testimony of the company's representative supports this finding. Her past conduct factored into the rationale for her discharge, and we therefore see no error in the ULJ's considering it in the employment-misconduct assessment.

Anderson also unconvincingly maintains that she was discharged for "simple unsatisfactory conduct," which is another statutory exception from the misconduct definition. Minn. Stat. § 268.095, subd. 6(b)(3) (2024). In doing so, she likens this case to *Bray v. Dogs & Cats Ltd.*, where we reversed a misconduct determination because the employee "attempted to be a good employee but just wasn't up to the job." 679 N.W.2d 182, 185 (Minn. App. 2004). Our reasoning in *Bray* does not apply here. We based our reversal in that case not just on the employee's not being "up to the job" but also on the fact that she "was *unable* to perform her duties to the satisfaction of the employer." *Id.* (emphasis added). By contrast here, the ULJ did not find that Anderson *could not* do the job to her employer's satisfaction but that, despite repeated warning and performance-improvement plans, she *would not* do the job to her employer's satisfaction. The exception does not apply.

Anderson argues too that, as a matter of fact, she did not engage in employment misconduct because the record does not support the ULJ's finding that Cooperative Response had a policy requiring her to transfer callers to a supervisor immediately on a caller's second request. We review ULJ decisions to determine whether they rest on "substantial evidence," Minn. Stat. § 268.105, subd. 7(d)(5) (2024), which, among other things, is evidence that a reasonable person would accept as adequate. *Minn. Ctr. for Env't Advoc. v. Minn. Pollution Control Agency*, 644 N.W.2d 457, 464 (Minn. 2002). When reviewing a decision for substantial evidence, we view the evidence in the most favorable light to the ULJ's decision and defer to her credibility determinations. *Dourney v. CMAK Corp.*, 796 N.W.2d 537, 539 (Minn. App. 2011). Cooperative Response's human-resources employee's testimony constitutes substantial evidence supporting the ULJ's contested finding. She testified that Cooperative Response expected and trained Anderson to transfer a caller to a supervisor without any further attempt at de-escalation if the caller asks for a supervisor "multiple times, such as two." She discussed this standard when explaining how new employees are "instructed how to handle a customer who's demanding to speak to a supervisor." And the ULJ chose to credit this testimony over Anderson's. It is true that the ULJ might have interpreted the testimony differently rather than conclude that the policy required transfer after a caller's second request. But viewed in the light most favorable to the decision, the testimony constitutes substantial evidence and defeats Anderson's argument.

Affirmed.