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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A26-0097**

Stephanie Neely,
Relator,

vs.

Bemidji Candlewood LLC,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed September 14, 2026
Affirmed
Bentley, Judge**

Department of Employment and Economic Development
File No. 52128159-3

Stephanie Neely, Bemidji, Minnesota (self-represented relator)

Bemidji Candlewood LLC, Bemidji, Minnesota (respondent-employer)

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

Considered and decided by Johnson, Presiding Judge; Smith, Tracy M., Judge; and
Bentley, Judge.

NONPRECEDENTIAL OPINION

BENTLEY, Judge

Relator seeks review of the determination of an unemployment-law judge (ULJ) that she committed employment misconduct by failing to report for work without notice and that she is therefore ineligible for unemployment benefits. Relator argues that the ULJ's decision is unsupported by substantial evidence and that she did not commit employment misconduct. We affirm.

FACTS

Relator Stephanie Neely was hired by respondent-employer Bemidji Candlewood LLC in July 2024 as a full-time hotel housekeeper. In late June 2025, a tornado damaged the hotel at which Neely worked. The hotel was subsequently closed for remodeling for several months. To keep staff employed during this period, Candlewood management offered employees work related to the remodel, including moving furniture back into rooms, wiping down furniture, and cleaning up dust and debris left from the construction crew. These tasks initially were optional and the amount of work available fluctuated based on the scope of the remodeling work.

In early August, Candlewood management requested that housekeeping employees return to their regular schedules starting Monday, August 11. Neely failed to report to work on August 11 and 12. Neely's supervisor (the supervisor) texted her on August 12, requesting that she meet with him at 10:30 a.m. on August 13 to discuss her attendance. Neely arrived at work on Wednesday, August 13 around 8:30 a.m., but she was told by

another employee that she was not needed that day, so Neely left without attending the meeting. Neely was discharged later that day.

Neely applied for unemployment benefits with respondent Minnesota Department of Employment and Economic Development (DEED). DEED determined that Neely was ineligible for unemployment benefits because she committed employment misconduct by refusing to report for work. Neely appealed that determination.

The ULJ held an evidentiary hearing at which Neely and the regional manager of Candlewood (the regional manager) testified. Candlewood submitted two documents as exhibits: (1) Neely's timecard entries, and (2) a log of text messages between Neely and the supervisor. Neely also provided several screenshots of text messages between her and the supervisor.

The regional manager testified that Neely was discharged for "refusing to come into work." The regional manager stated that "there was no message from [Neely]" about her absence on August 11 or 12. Candlewood policy required that employees notify their manager of an absence either by text message or phone call "two hours prior to the absence or at earliest . . . knowledge." Because Neely was absent on August 11 and 12 without notice and did not attend the meeting with the supervisor, the regional manager explained that the supervisor then sent Neely a message "indicating . . . that her refusal to show up is resulting in her termination."

Neely testified that she believed the reason for her discharge was that she asked the supervisor for hotel discounts. Neely also stated that she did not receive a message from the supervisor about the August 13 meeting or about the regular work schedule resuming

on August 11. Neely explained, the supervisor “told me to come in that week, and I said I can’t until I get back from the cities, which was the truth. And I came, I thought it was Friday. . . . I know it was the 13th.” Regarding her failure to meet with the supervisor, Neely stated, “I never even knew about any meeting at 10:30. I was coming in to talk to him. Oh, about the meeting, apparently. Well, he wasn’t there.”

The ULJ issued a decision after the hearing that included detailed findings about the series of events leading up to Neely’s discharge based on the testimony and exhibits offered at the hearing. The ULJ found that, on August 11 and 12, “Neely did not work her scheduled shift and did not provide notice of her absence.” The ULJ also noted that Neely testified that she did not receive the message about resuming her normal schedule, but the ULJ determined that testimony was not credible because it was “inconsistent” with Neely’s other testimony. The ULJ therefore concluded that “Neely knew she was to return to work on August 11, 2025, but chose not to.” In contrast, the ULJ determined that the regional manager’s testimony was credible “because it was based on business records and his firsthand knowledge.”

Based on those findings, the ULJ concluded that Neely had committed employment misconduct and was ineligible for benefits because “[t]he preponderance of the evidence supports a finding that Candlewood discharged Neely for failing to provide notice of her absences on August 11 and 12, 2025,” and that Neely’s conduct “was intentional, negligent, or indifferent and constitutes a serious violation of the employer’s reasonable standards.”

Neely requested reconsideration. The ULJ affirmed the decision in a subsequent order.

Neely appeals by writ of certiorari.

DECISION

When reviewing a ULJ’s decision, we may affirm or remand the decision, or we may reverse or modify the decision if the employee’s substantial rights were prejudiced “because the findings, inferences, conclusion, or decision” were “(1) in violation of constitutional provisions; (2) in excess of the statutory authority or jurisdiction of the department; (3) made upon unlawful procedure; (4) affected by other error of law; (5) unsupported by substantial evidence in view of the hearing record as submitted; or (6) arbitrary or capricious.” Minn. Stat. § 268.105, subd. 7(d) (2024).

Neely argues that the ULJ’s decision must be reversed because it is unsupported by substantial evidence and erroneously concluded that she committed employment misconduct. We consider both arguments in turn.

I

Neely first argues that the ULJ’s decision is unsupported by substantial evidence. Neely specifically contends that “[t]ext message evidence shows ongoing communication with the employer and supports [her] version of events” and “witness presence supports that [she] did appear for work.” We understand Neely to be challenging the ULJ’s finding that she did not provide notice of her absence and the ULJ’s findings about the events that occurred on August 13 when Neely returned to work.

“[S]ubstantial evidence is relevant evidence that a reasonable mind might accept as adequate to support a conclusion[.]” *In re NorthMet Project Permit to Mine Application*, 959 N.W.2d 731, 749 (Minn. 2021) (quotation omitted). We review the ULJ’s factual findings “in the light most favorable to the decision” and give deference to the ULJ’s credibility determinations. *Skarhus v. Davanni’s Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). We will not disturb the ULJ’s factual findings “as long as there is evidence in the record that reasonably tends to sustain them.” *Stagg v. Vintage Place Inc.*, 796 N.W.2d 312, 315 (Minn. 2011).

Neely argues that the record does not support the ULJ’s finding that Neely did not provide notice of her absence on August 11 and 12. We disagree. The supervisor texted Neely on Tuesday, August 5, that she may be discharged “if [they] don’t see [her] at work this week.” Neely replied that she would “be back at work, won’t be back till Friday probably.” These texts contradict Neely’s testimony that she told the supervisor she “was in the cities and [she] came back on Friday or Wednesday, whatever the 13th was.” There is no message in which Neely specified that she would be returning August 13, which was a Wednesday. The messages show that Neely communicated to her supervisor that she was unavailable to work the week of August 5 until “Friday,” which would have been August 8, but they do not show her communicating that she would be absent the following Monday and Tuesday, August 11 and 12. We therefore conclude that the ULJ’s finding that Neely was absent from work without notifying Candlewood is supported by the record.

Neely also asserts that the ULJ’s findings about the events of August 13 are incorrect because she reported to work but was turned away. However, the ULJ credited

her testimony about the events of August 13 and incorporated it into the factual findings.

The ULJ found:

On August 13, 2025, Neely reported to work for her 9:00 a.m. shift prior to the start of her shift but [an employee], at the front desk, told Neely that she did not think Neely was needed. So, Neely left. [The front desk employee] was not the general manager. Neely did not speak with her supervisor, the general manager, before leaving.

Neely did not return for her meeting with the general manager at 10:30 a.m.

Neely testified that she “did show up and [an employee] told me that they didn’t need me, and it was that week [the supervisor] asked me to come in.” The record therefore supports the ULJ’s findings.

Accordingly, we conclude that the ULJ’s factual findings are supported by the record, and Neely has not established that the decision was unsupported by substantial evidence.

II

Neely also argues that she did not commit employment misconduct by failing to report for work because she reported for her shift on August 13 but was turned away.

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). An employee refusing to follow “an employer’s reasonable policies and requests amounts to disqualifying misconduct.” *Schmidgall v. FilmTec Corp.*, 644 N.W.2d 801, 804 (Minn. 2002). Consequently, when an employee is aware of their employer’s absenteeism

policy, failure to follow that policy may be a serious violation of the employer's standards sufficient to constitute misconduct. *See Stagg*, 796 N.W.2d at 317. "Generally, a single absence without permission from the employer may amount to misconduct." *Hanson v. Crestliner Inc.*, 772 N.W.2d 539, 543 (Minn. App. 2009).

"Whether an employee engaged in conduct that disqualifies the employee from unemployment benefits is a mixed question of fact and law." *Stagg*, 796 N.W.2d at 315 (quotation omitted). Whether the employee committed a certain act is a question of fact. *Hanson*, 772 N.W.2d at 543. "But whether the act committed by the employee constitutes employment misconduct is a question of law, which [appellate courts] review de novo." *Skarhus*, 721 N.W.2d at 344.

We understand Neely to argue that her appearance on August 13 was sufficient to fulfill her obligation to return to work, so she did not commit employment misconduct. We are not persuaded.

Candlewood had a reasonable absenteeism policy in place, requiring that an employee notify a manager at least two hours prior to an absence, when possible. Neely was aware of this policy, as demonstrated by text messages from June in which the supervisor told Neely that calling out of work after her shift started was a policy violation. Neely was also aware that she was asked to resume her regular schedule during the week of August 11. The regional manager testified that he instructed the supervisor to notify the housekeepers that they would be returning to regularly scheduled shifts starting at 9:00 a.m. on August 11. Neely claimed that she did not receive any message of that nature, but

the ULJ found this testimony not credible because it was inconsistent with Neely's other testimony. We defer to the ULJ's credibility determinations. *Id.*

In sum, the record supports that Neely knew that she was expected to report for work on August 11 and, under Candlewood's absence policy, she knew that she must notify her manager in advance of any absence. She then failed to report for work on both August 11 and 12 and failed to provide her employer with advance notice of those absences. Because substantial evidence supports the ULJ's determination that Neely knowingly violated her employer's reasonable policy, we conclude that the ULJ did not err in determining that she committed employment misconduct. *Schmidgall*, 644 N.W.2d at 804; *see also Stagg*, 796 N.W.2d at 317.

Affirmed.