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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-1709**

Christopher Schneeweiss,
Relator,

vs.

Schwan's Consumer Brands, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed July 2, 2012
Affirmed
Collins, Judge***

Department of Employment and Economic Development
File No. 27705129-3

Christopher Schneeweiss, Orleans, Massachusetts (pro se relator)

Schwan's Consumer Brands, Inc., Marshall, Minnesota (respondent employer)

Lee B. Nelson, Amy R. Lawler, Department of Employment and Economic
Development, St. Paul, Minnesota (for respondent department)

Considered and decided by Stoneburner, Presiding Judge; Hudson, Judge; and
Collins, Judge.

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

UNPUBLISHED OPINION

COLLINS, Judge

Relator challenges the decision of the unemployment law judge (ULJ) that he is ineligible for unemployment benefits because he was discharged for misconduct after refusing to sign a written warning to acknowledge its receipt, despite being warned that refusal to sign could result in discharge. Relator argues that he was being forced to sign under duress and that he did not believe he would be terminated for failure to sign. We affirm.

FACTS

Christopher Schneeweiss was employed as a brand manager for respondent Schwan's Consumer Brands, Inc., from July 2010 until May 9, 2011. On May 5, 2011, Schwan's issued a warning to Schneeweiss, stating that he needed to improve his "functional/technical skills, presentation skills, and interpersonal savvy." On May 6, 2011, Schneeweiss's supervisor and Schwan's human-resources manager both told Schneeweiss that he was required to sign the warning, to acknowledge its receipt, and that he could be discharged if he did not sign. The warning document stated the same information and also stated that, if Schneeweiss disagreed with or did not understand the warning, he could submit a written response. Schneeweiss admitted that he was told that the purpose of his signature was to acknowledge his receipt of the warning and that he could be discharged for refusal to sign.

Schneeweiss refused to sign. His supervisor and the human-resources manager urged him to think about it over the weekend. When Schneeweiss returned to work on

May 9, he did not sign the warning document and was discharged. Schneeweiss testified that he refused to sign because he disagreed with the information in the warning, the reason for signing was not clearly explained to him, he was concerned that his signature might mean more than an acknowledgment of receipt, he felt he was being required to sign under duress, and he did not understand that he could be discharged for refusing to sign.

Schneeweiss filed a claim for unemployment benefits, and the Minnesota Department of Employment and Economic Development determined that Schneeweiss was discharged for employment misconduct and, therefore, ineligible for benefits. Schneeweiss appealed, and, following a hearing, the ULJ determined that Schneeweiss had not committed misconduct because an employer does not have the right to reasonably expect an employee to sign a document with which he disagreed and that Schneeweiss's refusal to sign was not a serious violation when he did not understand or was unsure of what his signature could be used for. Schwan's filed a request for reconsideration, and the ULJ issued an order modifying the initial decision. The ULJ stated that the factual findings in the initial decision were correct but that the legal conclusion was incorrect. The ULJ then concluded that Schneeweiss's refusal to sign the acknowledgment of receipt of the warning document constituted employment misconduct, rendering Schneeweiss ineligible to receive unemployment benefits. This certiorari appeal followed.

DECISION

This court reviews a ULJ's decision to determine whether substantial rights were prejudiced because the findings, inferences, conclusion, or decision are unsupported by substantial evidence in view of the record as a whole or affected by an error of law. Minn. Stat. § 268.105, subd. 7(d) (2010). We view factual findings in the light most favorable to the decision and defer to the ULJ's credibility determinations. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006).

Whether an employee committed misconduct is a mixed question of fact and law. *Stagg v. Vintage Place*, 796 N.W.2d 312, 315 (Minn. 2010). Whether the employee committed a particular act is a fact question, which we review in the light most favorable to the decision and will affirm if supported by substantial evidence. *Skarhus*, 721 N.W.2d at 344. Whether an employee's act constitutes employment misconduct is a question of law, which we review de novo. *Stagg*, 796 N.W.2d at 315.

A person who is discharged because of employment misconduct is ineligible to receive unemployment benefits. Minn. Stat. § 268.095, subd. 4(1) (2010). "Employment misconduct means any intentional, negligent, or indifferent conduct, on the job or off the job that displays clearly (1) a serious violation of the standards of behavior the employer has the right to reasonably expect of the employee; or (2) a substantial lack of concern for the employment." *Id.*, subd. 6(a) (2010). Employment misconduct does not include inefficiency or inadvertence, simple unsatisfactory conduct, poor performance because of inability or incapacity, or good-faith errors in judgment. *Id.*, subd. 6(b).

Schneeweiss argues that he did not believe that he would be terminated for refusing to sign because, although he had been told that he might be discharged, he had a good relationship with his supervisor and believed the two of them could work things out. But nothing in the record indicates that Schwan's made such a representation to Schneeweiss. Rather, both his supervisor and the human-resources manager told Schneeweiss that refusal to sign could result in termination, and the warning document states that refusal to sign will be deemed insubordination and could result in termination.

Schneeweiss argues that he felt he was being required to sign under duress and was concerned about how the acknowledgment might be used in the future. But both his supervisor and the human-resources manager told Schneeweiss that the purpose of his signature was to acknowledge receipt of the warning, and the document also states that the signature is an acknowledgment of receipt and that Schneeweiss could submit a written response if he disagreed with the contents of the warning.

Schneeweiss argues that Schwan's falsely stated in its request for reconsideration that Schneeweiss "was suspended" when he refused to sign and then was discharged after being given another opportunity to sign, which he also refused. Even if Schwan's incorrectly stated that Schneeweiss was suspended, the ULJ did not rely on that assertion as a fact to support her conclusion that Schneeweiss committed misconduct; thus no prejudice to Schneeweiss is attributable to such statement.

Finally, Schneeweiss argues that the evidence presented by Schwan's contained many false statements. But he does not specify what evidence was allegedly false or point to anything in the record substantiating his claim of falsity. Moreover, Schneeweiss

fails to show prejudice resulting from any allegedly false evidence. The ULJ stated in her initial decision: “The parties were in agreement on the majority of the facts. Where the parties differed, the findings of fact are based on [Schneeweiss’s] testimony. [Schneeweiss’s] testimony was credible because he was competent to testify to his state of mind.” On reconsideration, the ULJ affirmed the factual findings in the initial decision and modified only the legal conclusion.

“As 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); *see also Sandstrom v. Douglas Mach. Corp.*, 372 N.W.2d 89, 91 (Minn. App. 1985) (“The general rule is that if the request of the employer is reasonable and does not impose an unreasonable burden on the employee, a refusal will constitute misconduct.”). Requiring Schneeweiss to sign an acknowledgment of receipt of the warning document, which allowed him to submit a written response if he did not agree with or did not understand the warning, was reasonable and did not impose an unreasonable burden on Schneeweiss. Schneeweiss failed to substantiate his claim of false evidence or show any prejudice resulting from any false statements or evidence. *Cf.* Minn. Stat. § 268.105, subd. 2(c)(2) (2010) (stating that, on request for reconsideration, an additional evidentiary hearing is required if the party shows that evidence submitted at the evidentiary hearing was likely false and that the likely false evidence had an effect on the outcome of decision). We, therefore, affirm the ULJ’s conclusion that Schneeweiss was discharged for employment misconduct.

Affirmed.