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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-1739**

Willie Harris,
Relator,

vs.

Summit Early Learning Center, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed June 23, 2014
Affirmed
Smith, Judge**

Department of Employment and Economic Development
File No. 31247555-3

Willie Harris, Minneapolis, Minnesota (pro se relator)

Summit Early Learning Center, Inc., San Dimas, California (respondent)

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

Considered and decided by Smith, Presiding Judge; Connolly, Judge; and Randall,
Judge.*

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

UNPUBLISHED OPINION

SMITH, Judge

We affirm the decision of the unemployment law judge (ULJ) that relator is ineligible for unemployment benefits because the record substantially supports the ULJ's conclusion that relator violated her employer's instructions to avoid confrontations with other employees.

FACTS

Relator Willie Harris worked as a teacher and a teaching assistant at respondent Summit Early Learning Center, Inc., from early 2012 until the first week in May 2013. Harris's employment was terminated immediately after she verbally confronted another teacher in a classroom with children present on May 6. The confrontation occurred less than a month after Harris had yelled at another teacher, beginning in a classroom and continuing into the hallway, and about two weeks after Harris had yelled at another teacher with children present. After the second incident, Harris's supervisor verbally warned her that "this was gonna be the last time that she could have these verbal arguments with staff."

Harris applied for unemployment benefits, and respondent department of employment and economic development determined that she was ineligible because her employment had been terminated due to employment misconduct. Harris appealed the determination, and a ULJ convened an evidentiary hearing on June 21, 2013.

While others testified to the above facts, Harris testified that she did not raise her voice during the last incident, but only advised the teacher that he was being

disrespectful. She admitted that she had raised her voice in the second incident two weeks earlier, explaining that she had been fearful that the other teacher would harm her child and that she later apologized. Harris denied the first incident.

The ULJ found the testimony of Summit's witnesses more credible than Harris's, and she concluded that Harris was discharged for employment misconduct and is therefore ineligible for unemployment benefits. Harris requested reconsideration, and the ULJ affirmed.

D E C I S I O N

Harris challenges the ULJ's ruling that she is ineligible for unemployment benefits because her employment was terminated for employment misconduct. When reviewing a ULJ's decision, we may reverse or modify the decision if, among other defects, it is "unsupported by substantial evidence in view of the entire record as submitted." Minn. Stat. § 268.105, subd. 7(d) (2012). An employee who is discharged for employment misconduct is ineligible to receive unemployment benefits. Minn. Stat. § 268.095, subd. 4(1) (2012).

"Whether an employee committed employment misconduct is a mixed question of fact and law." *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). "Whether the employee committed a particular act is a question of fact" that we review "in the light most favorable to the [ULJ's] decision, giving deference to the [ULJ's] credibility determinations." *Id.* (citations omitted). "[W]e will not disturb the ULJ's factual findings when the evidence substantially sustains them." *Id.* (citing Minn. Stat. §

268.105, subd. 7(d)). “But whether the act committed by the employee constitutes employment misconduct is a question of law, which we review de novo.” *Id.*

The record substantially supports the ULJ’s factual findings, and these facts establish that Harris’s employment was terminated for employment misconduct. Harris asserts that “[t]here was no admissible evidence at the hearing that [she] committed misconduct,” and she claims that she did not raise her voice or adopt “an argumentative tone” during the May incident. But the ULJ found that Harris’s version of events was “self-serving and less plausible” than that of her employer. Because we defer to the ULJ’s credibility determinations, Harris’s challenge fails.

Even if we assumed that Harris’s version of the early-May confrontation was accurate, it would not justify reversing the ULJ’s decision. Although Harris argues that she did not raise her voice, she acknowledges that the confrontation occurred. “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). The record establishes, and Harris does not contest, that she had been warned not to confront other employees. There is nothing in the record to indicate that this instruction was limited to confronting them with a raised voice; the mere fact that Harris confronted another employee after being warned not to is employment misconduct. We therefore conclude that the ULJ did not err by ruling that Harris is ineligible for unemployment benefits.

Affirmed.