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**STATE OF MINNESOTA
IN COURT OF APPEALS
A08-0919**

Laura J. Liljeblad,
Relator,

vs.

Grand Itasca Clinic and Hospital,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed May 26, 2009
Affirmed
Ross, Judge**

Department of Employment and Economic Development
File No. 20692962-3

Laura Liljeblad, 33047 Gary Drive, Grand Rapids, MN 55744 (pro se relator)

Grand Itasca Clinic and Hospital, 1601 Golf Course Road, Grand Rapids, MN 55744
(respondent)

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Development, 1st National Bank Building, 332 Minnesota Street, Suite E200, St. Paul,
MN 55101-1351 (for respondent Department)

Considered and decided by Ross, Presiding Judge; Halbrooks, Judge; and Hudson,
Judge.

UNPUBLISHED OPINION

ROSS, Judge

Relator Laura Liljeblad challenges an unemployment law judge's decision that she was discharged from her employment at Grand Itasca Clinic & Hospital because of aggravated employment misconduct and that she was therefore disqualified from receiving unemployment benefits. Because the record contains substantial support for the unemployment law judge's findings of fact and because the conclusions of law are not erroneous, we affirm.

FACTS

Laura Liljeblad began working full-time as a patient account representative for Grand Itasca Clinic & Hospital on April 19, 2004. Her job duties included handling billing, collections, and clerical matters. Up to 60% of her job involved direct contact with the hospital's patients, either by telephone or in person.

On June 7, 2007, while off the job, Liljeblad was arrested after the police pulled her over and discovered drugs in her car. She pleaded guilty to felony possession of drugs on September 11, 2007, and she told her supervisor about it the next day. Liljeblad explained to her supervisor that the drugs belonged to her husband and that she pleaded guilty because she knew that her husband had drugs in the car. The hospital took no action regarding Liljeblad's employment at that time.

In January 2008, the hospital received a letter about Liljeblad from the Minnesota Department of Human Services. The letter stated that "the division of licensing has received information regarding [Laura Liljeblad] that causes [her] to be disqualified from

any position allowing direct contact with or access to persons receiving services from facilities licensed by the Department of Human Services and Minnesota Department of Health.” Liljeblad received a similar letter:

Grand Itasca Clinic & Hospital . . . recently submitted your background study form. As part of the study, the Division of Licensing received information about you from the Itasca District Court showing that you pleaded guilty to a felony fifth degree drug charge on September 11, 2007, in the Itasca District Court. Further information may be obtained directly from Itasca District Court.

This conviction disqualifies you from any position allowing direct contact with, or access to, persons receiving services from facilities licensed by the Department of Human Services and the Minnesota Department of Health.

The letter also stated, “[The hospital] was told that you are disqualified, but was not told why you are disqualified.” The letter explained that Liljeblad could appeal her disqualification and that Grand Itasca “may or may not choose to let [her] work.”

Liljeblad approached her supervisors at the hospital regarding her disqualification. As required by the department’s disqualification letter, the hospital removed Liljeblad from her position; it suspended her without pay pending a review of options and the facts behind Liljeblad’s disqualification. The hospital held a “fact-finding meeting” with Liljeblad, union representatives, Liljeblad’s supervisor, and the hospital’s administrators. It decided that if Liljeblad appealed, and the department changed its position, Liljeblad could return to work. But if the department did not change its position, the hospital would discharge her.

Liljeblad appealed unsuccessfully. The department of health refused to set aside her disqualification because it believed that she “pose[s] a risk of harm to clients served by [the hospital].” The department of health also noted that it had ordered the hospital “to immediately remove [Liljeblad].” The hospital discharged Liljeblad on February 12, 2008. Its vice president stated, “[W]e actually had no choice in the matter . . . when faced with this letter from the State.”

Liljeblad sought unemployment benefits from the Department of Employment and Economic Development (DEED). DEED denied Liljeblad benefits because it determined that she was discharged for employment misconduct. Liljeblad appealed DEED’s decision to the unemployment law judge and, following a hearing, the ULJ determined that Liljeblad was discharged for aggravated employment misconduct and was therefore ineligible to receive unemployment benefits. The ULJ affirmed her decision after Liljeblad requested that she reconsider. Liljeblad now challenges the ULJ’s decision by writ of certiorari.

D E C I S I O N

Liljeblad contests the ULJ’s conclusion that the hospital discharged her for aggravated employment misconduct. She argues that the hospital should not have discharged her based on the department of human services disqualification because the department did not understand the circumstances of her guilty plea and “disqualified [her] in error.” She also asserts that the hospital should have made accommodations so that she could continue working and contends that she was actually terminated in retaliation because she was “in a contract with the union.”

A person who is discharged from employment because of aggravated employment misconduct is not qualified to receive unemployment benefits. Minn. Stat. § 268.095, subd. 4 (Supp. 2007). Aggravated employment misconduct includes “the commission of any act, on the job or off the job, that would amount to a gross misdemeanor or felony if the act substantially interfered with the employment or had a significant adverse effect on the employment.” *Id.*, subd. 6a(a)(1) (Supp. 2007). Whether an employee has committed misconduct is a mixed question of fact and law. *Schmidgall v. FilmTec Corp.*, 644 N.W.2d 801, 804 (Minn. 2002).

It is a question of fact whether the employee committed a particular act, and this court reviews a ULJ’s fact findings in the light most favorable to the decision. *Skarhus v. Davanni’s Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). We will not disturb factual findings of the ULJ when they are supported by substantial evidence. *Id.* Substantial evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Minn. Ctr. for Envtl. Advocacy v. Minn. Pollution Control Agency*, 644 N.W.2d 457, 466 (Minn. 2002). “Whether a particular act constitutes disqualifying misconduct is a question of law, which this court reviews de novo.” *Schmidgall*, 644 N.W.2d at 804.

Commission of Off-the-Job Felony

The ULJ found that “On September 11, 2007, Liljeblad pled guilty to felony possession of drugs.” That finding is supported by substantial evidence. Liljeblad admitted that she pleaded guilty to drug possession after the police pulled her vehicle over and discovered crack cocaine inside. Liljeblad testified that the drugs belonged to

her husband, but she knew that the drugs were in the car. Liljeblad confirms the facts behind her conviction in her brief to this court stating, “I pled guilty to a possession charge because I knew my husband had drugs in the car.” But Liljeblad asserts that she was not convicted of a felony. She is mistaken. A person is convicted when a district court accepts and records a guilty plea. *See* Minn. Stat. § 609.02, subd. 5 (2006) (defining conviction). The crime she was convicted of is a felony.¹ *See* Minn. Stat. § 152.025, subd. 2 (2006) (felony possession of drugs). Because the ULJ’s factual finding that Liljeblad committed a felony is supported by substantial evidence, the question becomes whether the felony “substantially interfered with the employment or had a significant adverse effect on the employment.” Minn. Stat. § 268.095, subd. 6(a).

Substantial Interference With Employment

DEED argues that Liljeblad’s off-the-job felony conviction substantially interfered with her employment because the department of human services disqualified her from having direct contact with patients and a large part of her job involved direct patient contact. The ULJ concluded that Liljeblad’s off-the-job felony “substantially interfered with the employment by requiring Grand Itasca to legally remove Liljeblad from her employment with them.” Liljeblad contends that the department of human services wrongly disqualified her from direct patient contact. But a review of the relevant statutes shows that the department’s disqualification was proper.

¹ Liljeblad argues on appeal that she received a stay of adjudication and was therefore not convicted of a crime. *See Smith v. State*, 615 N.W.2d 849, 851 (Minn. App. 2000), *review denied* (Minn. Sep. 26, 2000). But she presented no evidence to support her version of events to the ULJ, and her own testimony and the letter from the department of health indicate that she entered a guilty plea which was accepted by the district court.

The Department of Human Services Background Studies Act provides that “[t]he commissioner shall disqualify an individual who is the subject of a background study from any position allowing direct contact with persons receiving services from [a licensed facility] . . . when a background study completed under this chapter shows . . . a conviction of, or admission to, . . . one or more crimes listed in section 245C.15.” Minn. Stat. § 245C.14, subd. 1(a) (2008). One of the crimes listed in section 245C.15 is a felony-level controlled substance crime. *See* Minn. Stat. § 245C.15, subd. 2(a) (2008) (providing that “[a]n individual is disqualified under section 245C.14 if: . . . (2) the individual has committed a felony-level violation of any of the following offenses: . . . chapter 152 (drugs; controlled substance).” A background check revealed Liljeblad’s felony drug conviction. Because the hospital is a facility licensed by the Minnesota Department of Health, the department properly disqualified Liljeblad from having direct contact with people served by the hospital. And because Liljeblad’s job required this direct contact, her off-the-job felony substantially interfered with her employment.

Liljeblad argues that the hospital should have made accommodations or requested a variance so that she could continue working rather than discharging her. The Act allows the commissioner to grant a time-limited variance to a license holder “when the commissioner has not set aside a background study subject’s disqualification, and there are conditions under which the disqualified individual may provide direct contact services . . . that minimize the risk of harm to people receiving services.” Minn. Stat. § 245C.30, subd. 1(a) (2008). But as the ULJ properly noted, the Act does not require the hospital to request a variance. *See id.*

The record also shows that the hospital's decision not to request a variance was reasonable. If the hospital chose to let Liljeblad continue to work, it was required to "make sure that [Liljeblad] [is] always within sight or hearing of a supervising person when providing direct contact services." At the hearing, the hospital representatives stated that they did not apply for a variance because they "didn't have the resources to be able to observe [Liljeblad's] work so that [they] could prevent [Liljeblad] from having contact with [their] patients." Nothing in the record supports Liljeblad's claim that the hospital could have made reasonable accommodations for her or that they discharged her because she was a union member.

Liljeblad's felony drug conviction substantially interfered with her employment and led to her termination. The ULJ therefore correctly concluded that she was discharged for aggravated employment misconduct, rendering her ineligible to receive unemployment benefits. We therefore affirm the ULJ's decision.

Affirmed.