

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0901**

Andre Binns,
Relator,

vs.

Gopher Resource, LLC,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed February 18, 2025
Affirmed
Slieter, Judge**

Department of Employment and Economic Development
File No. 50570991

Andre Binns, Eagan, Minnesota (*pro se* relator)

Gopher Resource, LLC, Eagan, Minnesota (respondent-employer)

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

Considered and decided by Slieter, Presiding Judge; Worke, Judge; and Reilly,
Judge.*

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

NONPRECEDENTIAL OPINION

SLIETER, Judge

Andre Binns challenges the decision of an unemployment-law judge (ULJ) that he was ineligible for unemployment benefits due to employment misconduct. Because leaving work without management approval is employment misconduct, we affirm.

FACTS

Respondent Gopher Resource LLC terminated relator Andre Binns' employment for leaving work during an overtime shift without receiving approval from a manager. Following his discharge, Binns applied for unemployment benefits with the Minnesota Department of Employment and Economic Development (DEED). DEED determined that Binns was ineligible for unemployment benefits because he was terminated due to employment misconduct. Binns administratively appealed the ineligibility determination to a ULJ. The following facts derive from the hearing before the ULJ.

Gopher is a company that recycles lead batteries. Binns' regular duties included operating industrial equipment and hand tools, as well as cleaning water runoff from the floor. In March 2024, Gopher's CEO authorized an overtime cleaning shift. Binns volunteered for the overtime shift, reported for the shift, and was assigned cleaning duties. Binns asked the lead operator if he could work on the docks instead. The lead operator informed Binns that he could not and that he was needed to clean. Binns then informed the lead operator that, "I feel like you don't need my help, I would rather just be at home," and he left the plant.

Gopher had a written employment policy which stated that “[w]alking off the job or leaving the plant area during [an] assigned shift without management approval” would result in termination of employment. Binns was provided this written policy when he began employment with Gopher and testified that he reviewed the policy terms during his orientation. Following Binns’ decision to leave work without management approval, Gopher terminated Binns.

The ULJ determined that Binns committed employment misconduct by leaving work without management approval and was, therefore, ineligible for unemployment benefits. The ULJ affirmed the decision following Binns’ request for reconsideration.

Binns appeals.

DECISION

As relevant here we review a ULJ’s decision to determine whether it is supported by substantial evidence in the hearing record and is consistent with the law. Minn. Stat. § 268.105, subd. 7(d) (2024). Further, we review “the ULJ’s factual findings in the light most favorable to the decision” and defer to the ULJ’s credibility determinations. *Stagg v. Vintage Place Inc.*, 796 N.W.2d 312, 315 (Minn. 2011) (quotation omitted); *see also Skarhus v. Davanni’s Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006) (“We view the ULJ’s factual findings in the light most favorable to the decision, giving deference to the credibility determinations made by the ULJ.”). We will not disturb the ULJ’s findings when substantial evidence sustains them. *Id.*; *see* Minn. Stat. § 268.105, subd. 7(d).

“An applicant who was discharged from employment by an employer is ineligible for all unemployment benefits [if] . . . the applicant was discharged because of employment

misconduct.” Minn. Stat. § 268.095, subd. 4(1) (2024). “Employment misconduct means 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.” *Id.*, subd. 6(a) (2024). Whether a particular act constitutes employment misconduct that disqualifies an applicant from receiving unemployment benefits is a question of law that we review *de novo*. *Stagg*, 796 N.W.2d at 315.

This court has held that “an employee’s intentional refusal to perform a task” is employment misconduct. *Vargas v. Nw. Area Found.*, 673 N.W.2d 200, 207 (Minn. App. 2004), *rev. denied* (Minn. Mar. 30, 2004). “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). “A single incident can constitute misconduct when an employee deliberately chooses a course of conduct that is adverse to the employer.” *Id.* at 806.

Binns argues that it was unreasonable for Gopher to terminate his employment following a single incident of leaving the job site. However, as previously noted, a single incident may constitute misconduct when it is adverse to an employer. *Id.* Gopher’s policy requiring management approval prior to leaving work early is not unreasonable because an employer “has a right to expect an employee to work when scheduled.” *Del Dee Foods, Inc. v. Miller*, 390 N.W.2d 415, 417 (Minn. App. 1986) (citation omitted). Gopher had the right to reasonably expect Binns to work his scheduled shift and perform the assigned tasks. Gopher created the overtime shift specifically to fill a business need. When Binns left his scheduled shift without management approval, he violated Gopher’s reasonable

expectations and committed employment misconduct. The ULJ found that Gopher provided credible testimony that Binns' conduct was considered a "major violation" under Gopher's first-time-offense policy, and we defer to the ULJ's credibility findings. *Skarhus*, 721 N.W.2d at 344 ("We view the ULJ's factual findings in the light most favorable to the decision, giving deference to the credibility determinations made by the ULJ.").

Because Binns' behavior constituted employment misconduct, the ULJ did not err in determining him ineligible for unemployment benefits.

Affirmed.