STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1879

Thaleaha McBee,
Appellant,

vs.

Team Industries, Inc,
Respondent.

Filed July 1, 2024
Affirmed
Harris, Judge

Becker County District Court
File No. 03-CV-15-1470

Daniel Gray Leland, Ryan T. Conners, Leland Conners PLC, Minneapolis, Minnesota (for appellant)

John A. Kvinge, Larkin Hoffman Daly & Lindgren Ltd., Minneapolis, Minnesota (for respondent)

Considered and decided by Worke, Presiding Judge; Schmidt, Judge; and Harris, Judge.

SYLLABUS

Minnesota Statutes section 268.19 (2022) bars the admission of any documents created by an employer for submission to Minnesota Department of Employment and Economic Development for the purpose of evaluating an unemployment-benefits claim in later civil, administrative, or judicial proceedings.

OPINION

HARRIS, Judge

This appeal is taken from judgment following a bench trial in which the district court found for respondent-employer on appellant-employee's reasonable-accommodation disability-discrimination claim under the Minnesota Human Rights Act (MHRA), Minn. Stat. §§ 363A.01-.50 (2022 & Supp. 2023).[1] Appellant argues that the district court erred by (1) excluding evidence of written admissions made by respondent during unemployment-benefits proceedings; and (2) finding that respondent could not reasonably accommodate appellant's work restrictions without undue hardship. Because the plain language of section 268.19 bars the admission of any evidence submitted to the Minnesota Department of Employment and Economic Development for purposes of evaluating an unemployment-benefits claim, we affirm the district court's order excluding such evidence. And because the undisputed evidence shows that appellant could not perform the essential functions of her job, even with reasonable accommodations, we affirm the judgment.

FACTS

Appellant-employee Thaleaha McBee began working at respondent-employer Team Industries Inc. (Team)'s aluminum die-casting plant and foundry in Detroit Lakes in

[1] The MHRA was amended in 2023. 2023 Minn. Laws ch. 52, art. 19, §§ 45-72, at 325-38. Previous versions of the MHRA were in effect when the district court entered judgment for respondent. The amendments do not change the substance of the MHRA sections applicable to appellant's claims. Therefore, we cite the 2023 version of the MHRA. *See Interstate Power Co. v. Nobles Cnty. Bd. of Comm'rs*, 617 N.W.2d 566, 575 (Minn. 2000) (recognizing "general rule . . . that appellate courts apply the law as it exists at the time they rule on a case").

September 2014. At that time, McBee was working as a temporary employee through a staffing agency. A few months later, Team hired McBee as a regular, full-time employee. McBee's position at Team was as an operator, which involved working on a production line to make metal alloy parts using die-casting machines.

Team's single-page and three-page-functional job descriptions stated that the operator position required lifting 20 pounds or more as part of its "Essential Functions" and "Critical Demands." The operator duties that required lifting more than ten pounds were (1) replacing the shot tip, which involved changing out a piece of copper that screws onto the end of a "ram"—a tube that pushes molten metal into a mold for metal parts; (2) refilling the quench tank, which involved carrying and pouring a bucket of "quench"—a lubricant used to cool metal after it is cast—into the die-casting machines; and (3) cleaning, which involved lifting and moving anti-fatigue mats that can weigh between 18-24 pounds and shoveling scrap metal.

Team required all applicants who were offered a position, but had not started as an employee, to complete a physical test with an occupational-therapy company to confirm they could meet the physical demands of the operator job. The occupational-therapy company would not administer this test to a person with a ten-pound lifting restriction. Before she began work, McBee completed the test as required.

In early 2015, McBee began experiencing numbness and limited mobility in her hands. On January 7, 2015, McBee was issued a two-week 20-pound lifting restriction due to her hand numbness and concerns of carpel tunnel syndrome. McBee routinely "dropped objects" and was "not able to hold onto a can of Coke" because of her numb hands. On

March 10, 2015, McBee met with a neurosurgeon, who diagnosed McBee with bone spurs and spinal compression in her neck and issued a ten-pound lifting restriction. McBee's doctor detailed her ten-pound lifting restriction in a doctor's note that did not indicate a timeline or an end date for the restriction.[2]

On the same day, McBee provided Team with her doctor's note informing Team that she had a ten-pound lifting restriction. McBee worked a full shift that day but did not complete any tasks requiring lifting over ten pounds (changing any ram tips, carrying or pouring any quench, and cleaning tasks like shoveling or moving the anti-fatigue mats). The next day, McBee was scheduled for a full shift, but was sent home early after a meeting with members of Team's human resources department. On March 12, 2015, Team terminated McBee's employment. McBee filed a complaint against Team in June 2015, alleging Team violated the MHRA when it failed to reasonably accommodate her disability.

The parties proceeded to discovery, during which Team moved for a protective order excluding evidence and discovery of certain information provided by Team to the department of employment and economic development (DEED) in response to McBee's unemployment-benefits claim. One of the documents covered by Team's motion and obtained during discovery was a DEED questionnaire. In response to a question regarding whether the employer tried to make an accommodation for the applicant's illness, injury, or medical condition, Team responded by checking the box indicating, "No." On the same

[2] McBee's restriction continued for seven months.

questionnaire, in an area on DEED's form to explain when and what accommodations it made, or why it did not make accommodations for the employee, Team explained:

> Due to potential for paralysis (stated by [McBee] to supervisor, HR, and several co-workers) and the unwillingness of her doctors to take her out of work. She claimed she could be paralyzed simply by looking up. We did not want to be liable for aggravating her injury and being subject to a work comp claim.

The district court granted Team's motion prohibiting McBee from disclosing the DEED records but noted that it did not determine whether Team's response to McBee's unemployment-benefits claim (the DEED evidence) was admissible at trial.

On July 15, 2016, Team moved for summary judgment. The district court granted Team's motion for summary judgment, concluding as to the disability-discrimination and failure-to-accommodate claims under the MHRA that (1) McBee was not a qualified person with a disability because she could not perform essential functions of her job; (2) no reasonable accommodation could have allowed McBee to continue her employment; (3) even if McBee could have been accommodated, her continued employment posed a threat of serious harm to herself and others; and (4) the MHRA does not require an employer to engage in an interactive process. McBee appealed, the court of appeals affirmed, and the supreme court reversed and remanded for a trial. *McBee v. Team Indus., Inc.*, 925 N.W.2d 222, 224-27 (Minn. 2019).

On remand, McBee moved to admit the DEED evidence at trial, and Team objected and moved to exclude the same. The district court excluded the DEED evidence, reasoning

that Minnesota Statutes section 268.19 precludes admission of information obtained for an unemployment-benefits claim.

A bench trial was held in March 2023. The trial included testimony from a former operator and current employee at Team, McBee's former supervisor, a former Team plant manager, an occupational therapist who administered prehiring physical examinations for Team and who served as an expert on "essential functions" of the operator job, Team's former safety coordinator and human-resources manager, a financial consultant, Team's operations manager, and McBee. The district court admitted depositions from McBee's doctor, who was unavailable for trial, and another Team employee, who Team had accommodated with a 20-pound lifting restriction.

The district court granted judgment in favor of Team concluding (1) McBee was not a qualified person with a disability because she could not perform essential functions of her job; (2) no reasonable accommodation could have allowed McBee to continue her employment without causing undue hardship to the employer; and (3) McBee's continued employment posed a threat of serious harm to herself and others. McBee appeals.

ISSUES

I. Did the district court err when it excluded documents submitted to DEED as part of an unemployment-benefits application at trial?

II. Did the district court err when it found that Team did not violate the MHRA because Team proved that it could not make reasonable accommodations for McBee without undue hardship?

ANALYSIS

Under the MHRA, employers must provide a reasonable accommodation to qualified disabled employees unless the employer can demonstrate undue hardship. Minn. Stat. § 363A.08, subd. 6(a). McBee argues the district court erred by entering judgment for Team because Team clearly stated it terminated her due to her disability, as indicated in the DEED evidence. Team maintains that the district court correctly excluded the DEED evidence and determined that Team could not reasonably accommodate McBee without undue hardship.[3]

On appeal from judgment following a bench trial, appellate courts review the district court's factual findings for clear error and legal conclusions de novo. *Rasmussen v. Two Harbors Fish Co.*, 832 N.W.2d 790, 797 (Minn. 2013) (explaining standard of review after a bench trial); *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (explaining the clear error standard of review). In doing so, we "view the evidence in the light most favorable to the verdict," do not "engage in fact-finding anew," and defer to the district court's factual findings. *Rasmussen*, 832 N.W.2d at 797. "This deference is especially strong in employment discrimination cases." *Giuliani v. Stuart Corp.*, 512 N.W.2d 589, 593 (Minn. App. 1994) (quotation omitted). A finding of fact is clearly

[3] The district court also determined that Team proved its serious-threat defense. *See* Minn. Stat. § 363A.25 (serious-threat defense). The MHRA provides an affirmative defense to disability-discrimination claims if, even with reasonable accommodation, an employee "poses a serious threat to the health or safety of [herself] or others." *Id.* The employer bears the burden of proving that "it relied upon competent medical advice that there exists a reasonably probable risk of serious harm." *Lewis v. Remmele Eng'g, Inc.*, 314 N.W.2d 1, 4 (Minn. 1981). But because we affirm the district court's entry of judgment for Team based on its reasonable-accommodation finding, we do not reach this argument.

erroneous if we are "left with the definite and firm conviction that a mistake has been made." *Rogers v. Moore*, 603 N.W.2d 650, 656 (Minn. 1999) (quoting *Fletcher v. St. Paul Pioneer Press*, 589 N.W.2d 96, 101 (Minn. 1999)) (other citation omitted).

I. The district court did not abuse its discretion when it concluded that information submitted to DEED for the purpose of evaluating an unemployment-benefits application was inadmissible at trial under Minnesota Statutes section 268.19.

The district court denied McBee's motion to admit the DEED evidence "[r]elying on" its interpretation of Minnesota Statutes section 268.19.[4] McBee argues this is an error because section 268.19 is not so limited in its application. We review issues of statutory interpretation de novo. *McBee*, 925 N.W.2d at 227. "The goal of all statutory interpretation 'is to ascertain and effectuate the intention of the legislature.'" *Id.* (quoting Minn. Stat. § 645.16 (2018)). Neither party claims ambiguity in the language of section 268.19, subdivision 2. We agree that the subdivision is unambiguous. "We afford the district court broad discretion when ruling on evidentiary matters, and we will not reverse the district court absent an abuse of that discretion . . . . But the erroneous exclusion of evidence is

[4] The district court also concluded that the DEED evidence was "testimonial in nature." Minn. Stat. § 268.105 (2022). Section 268.105 applies in unemployment appeals, and states: "Testimony obtained at a hearing may not be used or considered for any purpose, including impeachment, in any civil, administrative, or contractual proceeding." *Id.*, subd. 5(b). McBee argues that the DEED evidence is not testimonial. But we need not reach this argument, as we conclude the language of section 268.19 is clear with regard to all "information obtained" by DEED. For the same reason, we need not reach McBee's argument that the DEED evidence should be admissible because it is not a final decision by an unemployment-benefits administrator. *Cf. id.*, subd. 5a (stating decision issued by an unemployment-law judge cannot be used as collateral estoppel); *see also Builders Commonwealth, Inc. v. Dep't of Empl. & Econ. Dev.*, 814 N.W.2d 49, 55 (Minn. 2012) (distinguishing between the application of collateral estoppel to administrative decisions made by judges and nonfinal decisions made by agency decision-makers).

grounds for a new trial unless the exclusion was harmless." *Doe 136 v. Liebsch*, 872 N.W.2d 875, 879 (Minn. 2015).

Pursuant to section 268.19, data gathered by DEED to administer the unemployment-benefits program is private and can be disclosed only in limited circumstances. Subdivision 2 specifically limits the disclosure of DEED information submitted by employers: "Information obtained under the Minnesota Unemployment Insurance Law, in order to determine an applicant's entitlement to unemployment benefits, are absolutely privileged and may not be made the subject matter or the basis for any civil proceeding, administrative, or judicial." Minn. Stat. § 268.19, subd. 2(c).

The district court correctly interpreted section 268.19. Team responded to DEED's request for information to aid its determination of whether McBee was entitled to unemployment benefits. Section 268.19 provides that such "[i]nformation obtained" by DEED for this purpose is "absolutely privileged." We will not depart from the plain language of a statute if it is unambiguous. *McBee*, 925 N.W.2d at 227 ("When legislative intent is clear from the statute's plain and unambiguous language, we interpret the statute according to its plain meaning without resorting to other principles of statutory interpretation." (quotation omitted)). Because the information provided by Team in the DEED form was "information obtained" solely for an unemployment-benefits proceeding, it "may not be made the subject matter or the basis for any civil proceeding." Minn. Stat. § 268.19, subd. 2(c). The plain language of the statute thus plainly bars admission of the DEED evidence as "absolutely privileged" information. *Id.*

Our conclusion is consistent with other cases analyzing disparate-treatment claims under the MHRA. In *Clapper v. Budget Oil Co.*, 437 N.W.2d 722, 724 (Minn. App. 1989), *rev. denied* (Minn. June 9, 1989), the appellant-employee filed a wrongful-termination suit and later applied for unemployment benefits. The unemployment-benefits administrator determined Clapper "had voluntarily discontinued his employment without good cause." *Clapper*, 437 N.W.2d at 724. Respondent-employer then moved for summary judgment, and the district court granted the motion, dismissing Clapper's suit. *Id.* The district court granted the employer's motion because it gave collateral-estoppel effect to the unemployment-benefits administrator's determination that Clapper voluntarily quit his job. *Id.* We reversed the district court, noting that the function of the unemployment-benefits administrative process is to "assist those who are involuntarily unemployed through no fault of their own," while the purpose of the MHRA is "to place individuals discriminated against in the same position they would have been in had no discrimination occurred." *Id.* at 726.[5]

Like *Clapper*, the evidence McBee sought to admit from the unemployment application is distinguishable from her MHRA claim. And, as we stated in *Clapper*, the legislature has intentionally "limit[ed] the use of information gathered in an unemployment compensation proceeding to the administrative sphere." *Id.* at 727.

[5] The *Clapper* court also was concerned about the informal nature of unemployment-benefits proceedings and the fact that evidentiary rules do not apply.

We therefore hold that under section 268.19, subdivision 2 information submitted to DEED for processing an unemployment-benefits claim is absolutely privileged and thus inadmissible in another civil, administrative, or judicial proceeding.

II. The district court did not err when it found that McBee was not a qualified disabled person, and that Team met its burden of proving it could not reasonably accommodate McBee.

"[I]n order to maintain a reasonable accommodation claim, [an employee] is required to establish that [the employer] knew of her disability and failed to make a reasonable accommodation for that disability." *Hoover v. Norwest Priv. Mortg. Banking*, 632 N.W.2d 534, 547 (Minn. 2001). But the duty to reasonably accommodate applies only to "a qualified employee with a disability." Minn. Stat. § 363A.08, subd. 6.

On appeal from a disparate-treatment judgment following a bench trial, appellate courts utilize a direct method of review that considers all evidence presented at trial. *Friend v. Gopher Co., Inc.*, 771 N.W.2d 33, 37-40 (Minn. App. 2009) (distinguishing between the *McDonnell-Douglas* framework and the "direct method" of reviewing MHRA claims, which relies on direct evidence that requires an inference); *Anderson v. Aitkin Pharmacy Servs., LLC*, 5 N.W.3d 123, 135 (Minn. App. 2024) (applying direct method to review an MHRA discrimination claim after a bench trial). In applying the direct method, we evaluate whether there are clear errors with the district courts factual findings. *Fletcher*, 589 N.W.2d at 102.

To prove her disability-discrimination claim, McBee needed to establish she is a member of a protected class because she is disabled, that a "substantial causative factor" motivating Team's discharge of her was her disability, *see id.*, and that she is a "qualified

disabled person" under the statute. *See* Minn. Stat. § 363A.03, subd. 36. If Team contested McBee's "qualified disabled person" status, the burden then shifted to Team to "prove it was reasonable to conclude a person with a disability, with reasonable accommodation, could not have met the requirements of the job." *Id.* If McBee met her burden of showing she is a "qualified disabled person," then Team had to reasonably accommodate McBee, unless it could meet its burden of proving that accommodating McBee in the operator job "would impose an undue hardship on [its] business." Minn. Stat. § 363A.08, subd. 6.

Team does not contest that McBee is disabled and acknowledges that, "[b]ecause McBee could not perform the essential functions of her job without violating her doctor's instructions . . . Team terminated her employment." *Cf. LaPoint*, *v. Fam. Orthodontics, P.A.*, 892 N.W.2d 506, 514 (Minn. 2017) (discussing the substantial causative factor in the employment decision at issue.) Instead, Team argues McBee is not a "qualified disabled person." Because Team contested McBee's "qualified disabled person" status, the burden then shifted to Team to "prove it was reasonable to conclude the disabled person, with reasonable accommodation, could not have met the requirements of the job." Minn. Stat. § 363A.03, subd. 36. The district court did not err in determining that Team met its burden here.

The MHRA states that "it is an unfair employment practice for an employer . . . not to provide a reasonable accommodation for a *qualified employee with a disability* . . . unless the employer . . . can demonstrate that the accommodation would impose an undue hardship . . . ." Minn. Stat. § 363A.08, subd. 6(a) (emphasis added). "'Qualified disabled person' means . . . a disabled person who, *with reasonable accommodation*, can perform

the *essential functions* required of all applicants for the job in question." Minn. Stat. § 363A.03, subd. 36(1) (emphasis added). Under the MHRA, a "qualified disabled person" is therefore an employee who is not only disabled, as McBee was, but who can perform the "essential functions" of the job with reasonable accommodation. Minn. Stat. §§ 363A.03, subd. 36(1), .08, subd. 6(a).

In reviewing this case on appeal from summary judgment, the supreme court held that "essential functions" include "fundamental job duties of the employment position" but not "marginal functions." *McBee*, 925 N.W.2d at 230-31 (referencing persuasive federal law interpreting "essential functions" in disability-discrimination claims). The following factors may be considered in determining whether a job function is "essential":

> (1) the employer's judgment as to which functions are essential; (2) written job descriptions prepared before advertising or interviewing applicants for the job; (3) the amount of time spent on the job performing the function; (4) the consequences of not requiring the incumbent to perform the function; and (5) the current work experience of incumbents in similar jobs.

Id. (quotation omitted).

The district court found that lifting at least ten pounds was an essential function of McBee's operator job because at least four tasks required lifting ten pounds: changing a ram tip, lifting parts of up to 20 pounds, filling the quench tank, and cleaning. In making this finding, the district court considered the exact factors the supreme court enumerated in *McBee*: (1) Team's opinion that lifting ten pounds was essential; (2) Team's one-page and three-page job descriptions for the operator position; (3) the need for cleaning to be done daily, which required picking up anti-fatigue mats weighing between 18-24 pounds

and shoveling variable weight scrap metal; and (4) that the consequences of reassigning McBee's work tasks that involved lifting more than ten pounds for an indefinite period of time, such as absolving McBee from the responsibility of cleaning and requiring other employees to help McBee change ram tips weighing between 20 to 50 pounds or fill quench weighing around 40 pounds, would decrease worker morale and require substantial changes to the foundry's production procedures. *Id.*

The district court's analysis is a correct application of the MHRA, and we therefore disagree with McBee's arguments that federal law requires a different conclusion. Unlike the MHRA, federal law requires employers to make accommodations only for "marginal functions" of a job; an employer need not accommodate "essential functions." *Dropinski v. Douglas County*, 298 F.3d 704, 707 (8th Cir. 2002).[6] This is especially true when an employer would need to completely restructure to accommodate the disabled employee, as the district court concluded Team would need to do here. *See Fjellestad v. Pizza Hut of America, Inc.*, 188 F.3d 944, 950 (8th Cir. 1999) ("[A]n employer need not reallocate or eliminate the essential functions of a job to accommodate a disabled employee.").[7]

The district court's finding that McBee could not perform the essential functions of the operator job is also supported by the record. McBee testified that the job descriptions,

[6] Given the similarity in language and purposes of the statutes, we look to federal employment-discrimination caselaw arising under Title VII of the 1964 Civil Rights Act, 42 U.S.C. § 2000e (2018), in interpreting the MHRA. *Fletcher*, 589 N.W.2d at 101.

[7] Though they do not bind us, we consider federal court opinions for their persuasive value and afford those opinions "due deference." *Citizens for a Balanced City v. Plymouth Congregational Church*, 672 N.W.2d 13, 20 (Minn. App. 2003).

which outlined requirements of lifting 20 pounds or more, were accurate and that she had signed them. McBee also testified she had completed a physical evaluation in the process of getting hired at Team, which included demonstrating that she could lift 85 pounds multiple times. Team's preemployment medical examiner testified that McBee could not have completed the exam with her disability, and that he "d[id] not feel that someone with a ten-pound lifting restriction would be able to complete the essential functions of the job." We discern no clear error with the district court's essential-functions findings based on this record.

Based on its findings that McBee could not lift more than ten pounds even with an accommodation, and that it was an essential function of the operator job to lift ten pounds, the district court did not err in concluding that McBee is not a "qualified disabled person." Minn. Stat. § 363A.03, subd. 36(1). There is simply no way McBee could perform the essential functions of the operator job because she could not lift over ten pounds. The supreme court suggested the same in McBee's previous appeal: if "lifting 10 pounds in itself was an essential function of McBee's position . . . McBee would not be 'qualified' as a matter of law." *McBee*, 925 N.W.2d at 232; *see also Khalifa v. G.X. Corp.*, 408 N.W.2d 221, 224 (Minn. App. 1987) (affirming a disability-discrimination claim because the district court found that a hairstylist who was prohibited from giving perms due to her disability was unqualified because she "could not perform an essential part of the job with reasonable accommodation"). The district court did not err in concluding that McBee is not "qualified" for the operator job as a matter of law.

Even assuming that McBee was a "qualified disabled person," the district court did not err in concluding Team met its burden of proving it could not reasonably accommodate McBee in the operator job, as such accommodation "would impose an undue hardship on [Team's] business." Minn. Stat. § 363A.08, subd. 6(a); *McBee*, 925 N.W.2d at 228-29. Reasonable accommodations can include making facilities more accessible and usable, job restructuring, modified work schedules, reassignment, acquisition or modification of equipment or devices, or the provision of aides on a temporary or periodic basis. Minn. Stat. § 363A.08, subd. 6(a). Whether it is an undue hardship for an employer to make accommodations for a disabled employee, or if accommodations are reasonable, is a question of fact that we review for clear error. *McBee*, 925 N.W.2d at 231.

The district court reasoned that McBee's "inability to lift more than 10 pounds disqualifies her from working as an Operator because essential functions of the job require lifting more than 10 pounds that cannot be reasonably accommodated by [Team] without undue hardship." This determination conflates different requirements under the MHRA. To clarify, whether an employee is a qualified disabled person is separate from the analysis of whether an undue hardship would be imposed on the employer if they were to reasonably accommodate the employee's disability. *Compare* Minn. Stat. § 363A.03, subd. 36(1) (defining a "qualified disabled person"), *with* Minn. Stat. § 363.08, subd. 6(b) (outlining factors to establish undue hardship). Pursuant to section 363A.03, subdivision 36, McBee had to establish she is a member of a protected class because she is disabled, that a "substantial causative factor" motivating Team's discharge of her was her disability, and that she is a "qualified disabled person" under the statute. If Team contested McBee's

"qualified disabled person" status, the burden then shifted to Team to "prove it was reasonable to conclude the disabled person, with reasonable accommodation, could not have met the requirements of the job." Minn. Stat. § 363A.03, subd. 36. If McBee met her burden of showing she is a "qualified disabled person," then, pursuant to section 363A.08, subdivision 6, Team had to reasonably accommodate McBee. But if Team could then meet its burden of proving that accommodating McBee in the operator job "would impose an undue hardship on [its] business," then it could show McBee's discharge did not amount to discrimination under the MHRA. Minn. Stat. § 363A.08, subd. 6.

Here, the district court found that McBee did not meet her burden of proving she is a "qualified disabled person" pursuant to section 363A.03 but also that Team met its burden of proving undue hardship pursuant to section 363A.08. Although these findings conflate different requirements under the MHRA, it is a distinction without difference, as both analyses lead to the same determination—that an accommodation is unreasonable if the employee cannot perform the essential functions of their job even with that accommodation.

Even if Team could exempt McBee or reassign some of her work functions, such accommodations would not be reasonable. The district court concluded that accommodating the essential function of cleaning by reassigning other operators to McBee's job, especially in addition to other changes like reassigning ram-tip and quench-filling duties for an indefinite amount of time, would unreasonably burden Team. And unlike another Team employee who had a similar lifting restriction around the same period, McBee was not qualified for any other job, as all jobs required lifting at least ten pounds.

Team thus could not accommodate McBee without unduly disrupting and burdening its other employees. *See, e.g.*, *Scruggs v. Pulaski County*, 817 F.3d 1087, 1091-94 (8th Cir. 2016) (concluding persuasively that an employee with a 25-pound lifting restriction in a position with an essential function that required lifting 40 pounds could not be reasonably accommodated).

Our opinion in *Helgerson v. Bridon Cordage, Inc.*, 518 N.W.2d 869, 872-73 (Minn. App. 1994), further illustrates that reallocating McBee's cleaning responsibilities and restructuring the operator job was unreasonable. We concluded in *Helgerson* that, because the appellant-employee could not "show that he was a qualified disabled person, he could not establish that he was a member of a protected class, and therefore could not establish a prima facie case of employment discrimination." 518 N.W.2d at 873. Like McBee, Helgerson worked in production, had a ten-pound lifting restriction due to his disability, and was required to repeatedly lift items weighing over ten pounds as an essential part of his job. *Id.* at 870. Also, like McBee, Helgerson requested an exemption from certain production tasks to accommodate his disability, such as the employer's procedure of rotating employee workstations to sustain worker morale, reduce fatigue, and mitigate repetitive-motion injuries. *Id*. But we reasoned in *Helgerson* that reallocating work tasks to accommodate Helgerson's disability would expose other workers to the very hazards the employer's production plan was designed to prevent. *Id.* at 872. Similarly, the district court's finding that Team's operators changed workstations for ergonomic and safety reasons is reasonable.

Although McBee's situation differs somewhat from Helgerson's because McBee's disability was temporary, Team had to make accommodations for McBee on an "indefinite" timeline. Accommodating an employee for an indefinite amount of time is unreasonable because it effectively requires the employer to "create a new, one-person job category independent of . . . [the functions] required of all other production employees." *Id.* at 872; *see also Alexander v. Northland Inn*, 321 F.3d 723, 727-28 (8th Cir. 2003) (concluding that assigning employees cleaning duties like vacuuming for an indefinite amount of time is not a reasonable accommodation). Like in *Helgerson*, it was therefore unreasonable to expect Team to accommodate McBee by creating an entirely new job.

The "ultimate question of whether [a] defendant discriminated against [a] plaintiff is one of fact." *LaPoint*, 892 N.W.2d at 514. Here, the district court found that Team could not reasonably accommodate McBee without undue hardship, and we defer to this finding of fact. *See id.* at 514-15 (noting appellate courts afford district court's trial findings great deference). We further discern no error with the district court's finding that Team met its burden and proved it did not discriminate against McBee because she could not perform the essential functions of the operator job.

DECISION

Because Minnesota Statutes section 268.19, subdivision 2, bars the admission of information submitted to DEED as absolutely privileged, the district court did not err in excluding such evidence. The district court also did not err by entering judgment in favor of Team because Team successfully contested McBee's "qualified disabled person" status

under the MHRA and proved that any accommodation for McBee was unreasonable given the essential functions of the job.

Affirmed.