IN THE COURT OF APPEALS OF IOWA

No. 7-579 / 96-1888
Filed April 24, 1998

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CLERK SUPREME COURT

RINGLAND JOHNSON, INC.,
Appellee,

vs.

EMPLOYMENT APPEAL BOARD, and IOWA DIVISION OF JOB SERVICE,
Respondents,

BRIAN J. HUNECKE,
Appellant.

Appeal from the Iowa District Court for Clinton County, C.H. Pelton, Judge.

Brian Hunecke appeals from the district court's judicial review ruling reversing the respondent Board's determination that Hunecke was entitled to unemployment compensation benefits. **REVERSED.**

Joseph H. Laverty, Davenport, for appellant.

A. John Frey, Jr. of Frey, Haufe & Current, P.L.C., Clinton, for appellee.

Anita M. Garrison, Des Moines, for respondent Board.

Considered by Sackett, P.J., and Streit and Vogel, JJ.

PER CURIAM

Appellant employee, Brian J. Hunecke, was discharged from his employment at Ringland Johnson, Inc., amid allegations of theft. Job Service's claims deputy denied unemployment benefits, finding Hunecke was discharged for misconduct. On appeal, the administrative law judge overruled the claims deputy and awarded benefits. The Employment Appeal Board affirmed the award.

In its judicial review of agency action, the district court, faced with resolving conflicting evidence in the record, determined credible evidence could not be ignored and thus substantial evidence did not support the agency's decision. The district court denied benefits. Hunecke appeals.

Our review of Job Service cases is governed by the administrative procedures set forth in chapter 17A of the Iowa Code. *Cobb v. Employment Appeal Bd.*, 506 N.W.2d 445, 447 (Iowa 1993). In reviewing a district court decision on the validity of an agency action, we ask only whether the district court correctly applied the law. *Id.* The district court is itself acting in an appellate capacity to correct errors of law on the part of the agency. *Id.* On appeal from the district court's judicial review, we apply the standards of Iowa Code section 17A.19(8) to the agency action to determine whether our conclusions are the same as those of the district court. *Id.*

We accord an agency only limited deference on matters of law, but an agency's findings of fact are binding on this court if supported by substantial evidence in the record when the record is viewed as a whole. *Swanson v. Employment Appeal Bd.*,

554 N.W.2d 294, 296 (Iowa App. 1996). Evidence is substantial if a reasonable mind would accept it as adequate to reach the same findings. *Id.* Evidence is not insubstantial merely because it could support contrary inferences. *Grinnell Mut. Reinsurance Co. v. Voeltz*, 431 N.W.2d 783, 785 (Iowa 1988); *Wells v. Dallas County Bd. of Adjustment*, 475 N.W.2d 680, 682 (Iowa App. 1991). Credibility of witnesses and the weight given to their testimony is a matter of fact for the agency to determine. *Rockwell Graphic Systems, Inc. v. Prince*, 366 N.W.2d 187, 192 (Iowa 1985).

The evidence in the record is replete with contradictions. There is very strong evidence of Hunecke's theft of his employer's materials and supplies. There is also evidence of Hunecke's innocence. The administrative law judge inferentially made determinations of the credibility of witnesses and of the weight given to evidence. We conclude the district court, in its effort to resolve the conflicting evidence in the record, did not accord the agency's findings sufficient deference. Although the findings of the district court are supportable from the evidence in the record, so are the findings of the administrative law judge. In its judicial review of agency action, the court's focus is whether the evidence is sufficient to support the decision made, not whether it is sufficient to support the decision not made. *Riley v. Oscar Mayer Foods Corp.*, 532 N.W.2d 489, 491 (Iowa App. 1995). A reviewing court may interfere with the agency's findings only if the evidence is uncontradicted and reasonable minds could not draw different inferences. *Frye v. Smith-Doyle*

Contractors, 569 N.W.2d 154, 155-56 (Iowa App. 1997). Accordingly, we reverse the decision of the district court and affirm the agency's decision awarding benefits.

REVERSED.