

IN THE COURT OF APPEALS OF IOWA

No. 1-466 / 91-424

FILED

DEC 31 1991

CLERK SUPREME COURT

DUANE E. MEYER,

471

Petitioner-Appellant,

vs.

EMPLOYMENT APPEAL BOARD and TRIGGS TRAILER CORPORATION,

Respondents-Appellees.

Appeal from the Iowa District Court for Franklin County, Stephen P. Carroll, Judge.

Petitioner appeals the district court's judgment affirming on judicial review the Employment Appeal Board's denial of his claim for unemployment benefits. **AFFIRMED.**

Evelyn Ocheltree, Legal Services Corporation of Iowa, Mason City, for appellant.

William C. Whitten and Joe E. Smith, Employment Appeal Board, for appellee Employment Appeal Board.

Gary L. Berkland, Belmond, for appellee Triggs Trailer Corporation.

Heard by Schlegel, P.J., and Sackett and Habhab, JJ.

SACKETT, J.

Petitioner-appellant Duane E. Meyer appeals from the district court decision affirming the Employment Appeal Board's decision denying him unemployment compensation benefits based on a finding he was fired for misconduct. We affirm.

Meyer was an employee of respondent-appellee Triggs Trailer Corporation. Triggs terminated Meyer's employment because he failed to sign a written warning that he failed to perform an assigned job satisfactorily. Meyer was told signing the warning was not an admission of guilt and his failure to sign it would result in his discharge.

Meyer's claim for unemployment benefits was denied by a hearing officer on the basis he was discharged for insubordination. Meyer appealed and an administrative law judge upheld the ruling of the hearing officer. The appeal board upheld the ruling of the administrative law judge; and the district court affirmed the decision. This appeal follows.

Meyer contends (1) he did not sign the warning because he was unable to understand it, (2) the agency and the district court did not properly apply the law, and (3) the employer's rule was not reasonable. We affirm.

Our review of the agency action is at law and not de novo. See Board of Dental Examiners v. Hufford, 461 N.W.2d 194, 198 (Iowa 1990); Iowa Health Systems Agency, Inc. v. Wade, 327 N.W.2d 732, 733 (Iowa 1982).

We are bound by the agency's findings of facts if supported by substantial evidence. See Heatherly v. Iowa Dep't of Job Serv., 397 N.W.2d 670 (Iowa 1986); Roberts v. Iowa Dep't of Job Serv., 356 N.W.2d 218, 221 (Iowa 1984). Evidence is substantial if a reasonable person would find it adequate for reaching a decision. Warrell v. Iowa Dep't of Job Serv., 356 N.W.2d 587, 589 (Iowa App. 1984).

Meyer recognizes he refused to sign the written warning. In Green v. Iowa Dep't of Job Serv., 299 N.W.2d 651, 656 (Iowa 1980), the court affirmed a district court's ruling a claimant's admitted refusal to sign a written warning was misconduct as a matter of law.

Meyer contends the rule of Green is not applicable to him because he did not have the mental capacity to commit a deliberate act or omission as required by the definition of misconduct, Iowa Administrative Code section 345-4.32(1). After his discharge, Meyer sought treatment at the North Iowa Mental Health Center, Inc. for depression and stress. As part of his treatment, he had psychological testing. After the testing, a clinical psychologist reported Meyer ". . . did not and could not understand that signing the warning did not constitute a confession of guilt."

The psychologist reasoned Meyer is limited in his ability to understand and process verbal instructions. Meyer contends the agency and the district court did not properly consider this evidence. We disagree. Meyer did not graduate from high school but testified he had no

problem reading a newspaper. Meyer had signed two prior warnings. The warning was given to Meyer to sign by his supervisor who explained to him signing it did not constitute an admission of guilt. The president of the company said to wait a day or two. Two days later Meyer again refused to sign when the same explanation was given. The president then talked to Meyer and told him signing it was not admission of guilt but a refusal to sign would result in his discharge. There is substantial evidence to support a finding Meyer deliberately and intentionally refused to sign the warning. The ruling is supported by substantial evidence.

Meyer contends Green is distinguishable because the claimant in Green was able to understand the purpose of the warning while he was not. Having found substantial evidence to support a finding he understood, we find it unnecessary to address this argument.

Meyer's last claim is the employer's rule was not reasonable. The rule is contained in the employee manual and Meyer received a copy of the rules. These rules provide the basis for the employer's operations and are designed to specify what the employee can expect and what the employer expects from its employees. These rules are not unreasonable.

AFFIRMED.