

IN THE COURT OF APPEALS OF IOWA

FILED

MAY 22 1984

CLERK SUPREME COURT

H. VINCENT YINGER,)

Petitioner-Appellant,)

Filed May 22, 1984

260

vs.)

IOWA DEPARTMENT OF JOB SERVICE)
and UNITED WAY OF GREATER DES)
MOINES,)

4-116
83-1152

Respondents-Appellees.)

Appeal from the Iowa District Court for Polk County - George W. Bergeson,
Judge.

Petitioner employee appeals from the district court decision on judicial
review affirming the decision of respondent agency disqualifying him from receipt
of unemployment benefits. AFFIRMED.

Linda S. Pettit of Pettit & Mann, Des Moines, for petitioner-appellant.

Walter F. Maley, Blair H. Dewey, and Joseph L. Bervid, Des Moines, for
respondent-appellee agency.

Greg A. Naylor and Kasey W. Kincaid of Nyemaster, Goode, McLaughlin,
Emery & O'Brien, P.C., Des Moines, for respondent-appellee employer.

Heard by Donielson, P.J., and Snell and Sackett, JJ.

Petitioner employee, H. Vincent Yinger, appeals from the district court decision on judicial review affirming the decision of respondent agency disqualifying him from receipt of unemployment benefits. Yinger asserts that the finding of disqualifying misconduct is unsupported by substantial record evidence and contrary to the statutory definition of misconduct.

Yinger was allocations coordinator for United Way at the time of his discharge. He disagreed with some aspects of a restructuring of United Way's fund distribution procedure which reduced the role of volunteer members of allocation committees. He scheduled a "brainstorming" session at which committee members could discuss the restructuring plan. His supervisor testified that he felt such a session would be inappropriate and that petitioner was not willing to cancel it when requested to do so. Both petitioner and the supervisor testified that the supervisor ultimately made the following statement: "If you don't cancel it, I will." Petitioner replied that the supervisor was "small" and could cancel the meeting himself. Respondent agency disqualified Yinger from receipt of unemployment benefits on the ground that his discharge resulted from misconduct. The district court affirmed on judicial review. This appeal followed.

Justice Schultz denied the employer's motion to dismiss the appeal due to appellant's failure to timely file appellant's brief and a certificate of no transcript.

I.

The district court, when exercising the power of judicial review conferred by section 17A.19 of the Iowa Code, is itself functioning in an appellate capacity to correct errors of law, as specified in section 17A.19(8). Peoples Memorial Hospital v. Iowa Civil Rights Commission, 332 N.W.2d 87, 91 (Iowa 1982). Thus, when this court reviews a decision of a district court rendered pursuant to section 17A.19, the sole question is whether the district court correctly applied the law. Id. In

order to make that determination, this court applies the standards of section 17A.19(8) to the agency decision to determine whether this court's conclusions are the same as those of the district court. Id. We are bound by the agency's findings of fact if they are supported by substantial evidence. Evidence is substantial if a reasonable mind could accept it as sufficient to reach the same findings. The fact that a different conclusion could also have been reached is irrelevant. New Homestead v. Iowa Department of Job Service, 332 N.W.2d 269, 270 (Iowa 1982).

II.

Iowa Code section 96.5(2) (1983) provides that a claimant is disqualified from unemployment benefits "[i]f the department finds that the individual has been discharged for misconduct in connection with the individual's employment." The sole issue before us is whether the department erred in holding that petitioner's conduct constituted "misconduct" as that term is contemplated under section 96.5(2). We address the issue of petitioner's discharge only as it relates to whether or not petitioner is entitled to unemployment benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d at 221.

Misconduct is defined by chapter 370 of the Iowa Administrative Code, section 4.32(1)(a), as:

[A] deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

Yinger was discharged from his employment because of his refusal to obey a direct order from his supervisor. The hearing officer found that such conduct "was contrary to and not in the best interests of [Yinger's] employer," and concluded that such insubordination was misconduct for which unemployment benefits should be denied. The appeal board affirmed the decision of the hearing officer, as did the district court on judicial review.

Insubordination or the disobedience of a reasonable direct order by the employer constitutes misconduct. See Green v. Iowa Department of Job Service, 299 N.W.2d 651, 655 (Iowa 1980) (claimant's refusal to sign a warning letter when directly ordered to do so by supervisor constituted misconduct). In this case Yinger admitted that he was directed on three different occasions to cancel the meeting which he had organized. He further admitted that he would not have cancelled the meeting under any circumstances despite the direct orders of his supervisor. We find ample evidence in the record to support the agency determination that Yinger willfully and deliberately refused to obey a direct order from his supervisor. We recognize that in certain situations an employee's refusal to perform specific tasks may not constitute misconduct where such refusal is in good faith or for good cause. Woods v. Iowa Department of Job Service, 327 N.W.2d 768, 771 (Iowa Ct. App. 1982) (repeated racial harassment by co-employees, undeterred by the employer, may constitute good cause for failure to perform a task at the source of the harassment). We find no such extenuating circumstances present in this case, however.

Because we find that the agency's findings of fact are supported by substantial evidence, we find no error on the part of the district court in affirming the agency's denial of benefits.

AFFIRMED.