

STATE OF MICHIGAN
COURT OF APPEALS

MYRON BOWLES,

Appellee/Cross-Appellee,

V

DETROIT RECEIVING HOSPITAL,

Appellant/Cross-Appellee,

and

UNEMPLOYMENT AGENCY, a/k/a
DEPARTMENT OF CONSUMER & INDUSTRY
SERVICES, f/k/a EMPLOYMENT SECURITY
DIVISION,

Intervenor/Cross-Appellant.

UNPUBLISHED

September 21, 2001

No. 219361

Wayne Circuit Court

LC No. 98-838503-AE

Before: Gage, P.J., and Fitzgerald and Markey, JJ.

PER CURIAM.

Appellant/cross-appellee Detroit Receiving Hospital (the Hospital) appeals by leave granted from the circuit court's reversal of intervenor/cross-appellant Michigan Unemployment Agency's denial of appellee and Hospital employee Myron Bowles' claim for unemployment benefits. The Unemployment Agency ultimately denied Bowles' claim on the basis of work-related misconduct, but the circuit court reversed the Agency's determination because the court did not believe that Bowles' statement cited by the Agency constituted misconduct. Although for different reasons, we affirm the circuit court's conclusion that Bowles is entitled to benefits.

This case requires us to review the circuit court's review of the Unemployment Agency's determination that Bowles engaged in work-related misconduct according to the Michigan Employment Security Act (MESA), MCL 421.29. The scope of the circuit court's review of the Agency's determination "is established in Const 1963, art 6, § 28, which requires the court

conducting a ‘direct review’ to determine whether the administrative action was authorized by law and whether the decision of the hearing officer was supported by ‘competent, material and substantial evidence on the whole record.’” *Boyd v Civil Service Comm*, 220 Mich App 226, 232; 559 NW2d 342 (1996).¹ “[W]hen reviewing a lower court’s review of agency action this Court must determine whether the lower court applied correct legal principles and whether it misapprehended or grossly misapplied the substantial evidence test to the agency’s factual findings,” a standard of review “indistinguishable from the clearly erroneous standard of review.” *Id.* at 234.

The Unemployment Agency and the Hospital both contend that the circuit court applied an incorrect standard of review in overturning the Agency’s finding that Bowles engaged in work-related misconduct. Our review of the record demonstrates that the trial court grossly misapplied the substantial evidence test to the Agency’s factual findings by limiting its review of the record to the single statement of Bowles that the administrative law judge (ALJ) mentioned within the “Reason for Decision” portion of her opinion, and not considering other relevant facts the ALJ mentioned in her findings of fact. The Constitution explicitly requires that the circuit court review the Agency’s findings to determine whether they “are supported by competent, material and substantial evidence *on the whole record*.” Const 1963, art 6, § 28 (emphasis added). See also *Great Lakes Sales, Inc v State Tax Comm*, 194 Mich App 271, 280; 486 NW2d 367 (1992) (“When reviewing whether an agency’s decision was supported by competent, material, and substantial evidence on the whole record, a court must review the entire record and not just the portions supporting an agency’s findings.”). We need not consider the effect of the circuit court’s clearly erroneous review of the Agency’s factual findings, however, because the relevant MESA provision warrants affirmance of the result the circuit court reached.

With respect to our examination on appeal whether the circuit court applied correct legal principles, *Boyd, supra* at 234, we find that the circuit court did not properly analyze whether the hearing referee’s decision was “authorized by law.” Const 1963, art 6, § 28. Neither the circuit court nor the Unemployment Agency Board of Review nor the ALJ cited or applied the following dispositive, italicized MESA language:

(1) Grounds. An individual is disqualified from receiving benefits if he or she:

* * *

(b) Was discharged for misconduct connected with the individual’s work or for intoxication while at work *unless the discharge was subsequently reduced to a disciplinary layoff or suspension*.

¹ See also MCL 421.38(1), authorizing circuit court review of “questions of fact and law on the record made before the referee and the board of review involved in a final order or decision of the board,” but permitting the circuit court to reverse the agency’s determination only when the court “finds that the order or decision is contrary to law or is not supported by competent, material, and substantial evidence on the whole record.”

* * *

(9) Disciplinary layoff or suspension. *Except for an individual disqualified under subsection (1)(g), or an individual whose disqualifying discharge under subsection (1)(b) is determined or redetermined to be a disciplinary layoff or suspension*, an individual is disqualified from receiving benefits for the duration of the individual's disciplinary layoff or suspension if the individual becomes unemployed because of a disciplinary layoff or suspension based upon any of the following:

(a) Misconduct directly or indirectly connected with work. [MCL 421.29 (emphasis added).]

It appears undisputed within the Agency and circuit court records that after Bowles' initial discharge from the Hospital, a Hospital appeals board reduced the discharge to a suspension without back pay and returned Bowles to work in a different department. A plain reading of subsection 29(1)(b) reveals that in light of Bowles' subsequent reinstatement, he could not be disqualified for unemployment benefits due to misconduct. The circuit court clearly erred in failing to correctly apply this subsection in determining whether the ALJ's decision was "authorized by law." Const 1963, art 6, § 28.

Despite our conclusions that the circuit court in reviewing the Agency's determination applied incorrect legal principles and misapplied the substantial evidence test, we affirm the circuit court's order that Bowles receive benefits for his suspension period because, according to the clear and unambiguous language of MESA subsection 29(1)(b), Bowles is entitled to benefits irrespective of any finding of misconduct. See *Norris v State Farm Fire & Casualty Co*, 229 Mich App 231, 240; 581 NW2d 746 (1998) (noting that this Court will not reverse a decision when the trial court reaches the correct result albeit for the wrong reason).

Affirmed.

/s/ Hilda R. Gage
/s/ E. Thomas Fitzgerald
/s/ Jane E. Markey