

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
SAM BIRD, JUDGE

DIVISION I

E07-32

MARCH 5, 2008

VIVIAN CAMP

APPELLANT

APPEAL FROM THE BOARD OF
REVIEW,
[NO. 2006-BR-1911]

V.

DEPARTMENT OF WORKFORCE
SERVICES AND FARMERS BANK
AND TRUST

APPELLEES

AFFIRMED

Vivian Camp, formerly a teller for Farmers Bank & Trust, appeals from a decision of the Department of Workforce Services Board of Review denying her unemployment compensation benefits. On appeal, Ms. Camp argues that the Board of Review erred in finding that she was discharged for misconduct connected with work within the meaning of the Arkansas Employment Security Law. We disagree and hold that substantial evidence supports the Board's finding of misconduct. Therefore, we affirm the decision.

Ms. Camp worked for Farmer's Bank & Trust from August 2, 2001, until September 18, 2006, when she was discharged by the Bank. The parties do not dispute the facts that led to Ms. Camp's being discharged. On August 30, 2006, Ms. Camp cashed a check for an

employee of a long-standing customer and gave him three one-hundred dollar bills. The bills that she gave to the customer came directly from a deposit made by another customer, not from her cash drawer. The next business day the customer for whom she had cashed the check returned to the Bank and claimed that, when he tried to use one of the one-hundred dollar bills given to him by Ms. Camp, he was advised by a local business that it was counterfeit. Ms. Camp took the one-hundred dollar bill from him and gave him another one-hundred dollar bill to replace it. Ms. Camp then contacted her supervisor, Ms. McFadden, and sent the bill to her so that they could find out what deposit the bill was from. On September 18, Ron Dawson, Vice President of the Bank, met with Ms. Camp. Ms. Camp admitted to Mr. Dawson that she knew the proper procedure for handling counterfeit bills but had not followed it. Mr. Dawson discharged Ms. Camp for failing to follow the proper procedures.

At the hearing, Mr. Dawson testified that the proper procedure for a teller to follow when she received a counterfeit bill was to immediately contact her supervisor and not to exchange the bill. While Mr. Dawson admitted that this was not a written policy of the Bank, he testified that it was the policy of the Bank for the employees to take online-training courses. He stated that this procedure was very clearly explained in several courses that Ms. Camp had taken and passed.

Ms. Camp testified that she had taken the online-training courses and that she did know that the proper procedure upon presentation of a counterfeit bill was to notify her supervisor immediately and not to exchange the Bank's bills for the counterfeit bills. She said

that she had previously caught a counterfeit bill and, in that case, she had not given the customer money in exchange for the counterfeit bill. She acknowledged that she did not follow the proper procedure in this case; however, she explained that she knew the customer and “did not feel that there was any illegal activities going on.” She testified that she “felt that [the customer] was honest” and that she was “trying to protect the bank’s customer.”

The Board of Review determined that Ms. Camp was discharged from last work for misconduct connected with the work within the meaning of the Arkansas Employment Security Law. The Board found that Ms. Camp had taken the online-training courses regarding the proper procedure for handling counterfeit bills and acknowledged her awareness of this procedure; that she had in fact followed this procedure on a previous occasion; and that she had made a conscious decision not to follow the proper procedure in this case. The Board found that Ms. Camp knew that she should immediately call a supervisor when presented with a counterfeit bill and that she should not give the customer money in exchange for a counterfeit bill. The Board then found that Ms. Camp’s behavior was more than a good-faith error in judgment or discretion; rather, the Board determined that it was a wanton and willful disregard of her employer’s best interests.

Ms. Camp argues on appeal that she was guilty of nothing more than a brief moment in which she exercised poor judgment. She contends that her conduct was not willful, wanton, or undertaken with the intentional purpose of damaging her employer. Therefore, she argues, the Board’s decision to deny her unemployment benefits was clearly erroneous.

On appeal from the Board of Review, we do not conduct a de novo review; instead, we review the evidence and all reasonable inferences deducible therefrom in the light most favorable to the Board's findings of fact. *West v. Director*, 94 Ark. App. 381, 383, 231 S.W.3d 96, 98 (2006). We will affirm the Board's findings if they are supported by substantial evidence, which is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Id.* Even when there is evidence upon which the Board might have reached a different decision, the scope of judicial review is limited to a determination of whether it could have reasonably reached its decision based upon the evidence before it. *Id.*

Arkansas Code Annotated section 11-10-514(a)(1) (Repl. 2002) provides that a person shall be disqualified from receiving unemployment benefits if the Director of the Employment Security Department finds that the person is discharged from his or her last work for misconduct in connection with the work. "Misconduct," for purposes of unemployment compensation, involves (1) disregard of the employer's interest, (2) violation of the employer's rules, (3) disregard of the standards of behavior that the employer has a right to expect of his employees, and (4) disregard of the employee's duties and obligations to his employer. *Fulgham v. Director*, 52 Ark. App. 197, 199, 918 S.W.2d 186, 188 (1996). To constitute misconduct for unemployment-insurance purposes, however, more is required than mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies, ordinary negligence in isolated instances, or good-faith errors in judgment or discretion. *Johnson v. Director*, 84 Ark. App. 349, 352, 141 S.W.3d 1, 2 (2004). Instead, there is an element of intent associated with a determination of misconduct. *Id.*

Mere good-faith errors in judgment or discretion and unsatisfactory conduct are not considered misconduct unless they are of such a degree of recurrence as to manifest culpability, wrongful intent, evil design, or intentional disregard of an employer's interest. *Fulgham*, 52 Ark. App. at 200, 918 S.W.2d at 188.

We hold that substantial evidence supports the Board's finding that Ms. Camp's awareness of and conscious decision not to follow established procedures for handling counterfeit bills constituted misconduct under our employment security law. While Ms. Camp may not have had an evil design or wrongful intent in making the choice not to inform her supervisor immediately upon receipt of the counterfeit bill and instead to exchange the bill in violation of the Bank's procedures, the Board found that she intentionally disregarded her employer's best interests. We hold that the Board could have reasonably reached its decision based upon the evidence before it and that its decision was supported by substantial evidence. Therefore, we affirm the Board's denial of unemployment benefits.

HART and MARSHALL, JJ., agree.