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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-1466**

Marry Franklin,
Relator,

vs.

Goodwill Industries, Inc.,
Respondent,

Department of Employment
and Economic Development,
Respondent.

**Filed April 9, 2012
Affirmed
Klaphake, Judge**

Department of Employment and Economic Development
File No. 27769317-3

Marry L. Franklin, St. Paul, Minnesota (pro se relator)

Goodwill Industries, Inc., St. Paul, Minnesota (respondent)

Lee B. Nelson, Department of Employment and Economic Development, St. Paul,
Minnesota (for respondent Department of Employment and Economic Development)

Considered and decided by Stoneburner, Presiding Judge; Klaphake, Judge; and
Cleary, Judge.

UNPUBLISHED OPINION

KLAPHAKE, Judge

Relator Marry Franklin was terminated from her job as a merchandise manager at respondent Goodwill Industries, Inc., for repeated violations of the company's attendance policy. Because substantial evidence supports the unemployment law judge's decision that relator's conduct constituted misconduct within the meaning of the unemployment law, which made her ineligible to receive unemployment benefits, we affirm.

DECISION

This court may reverse, remand, or modify a ULJ decision in an unemployment matter if, among other reasons, the decision is unsupported by substantial evidence, affected by an error of law, or is arbitrary or capricious. Minn. Stat. § 268.105, subd. 7 (d) (2010). This court reviews questions of law de novo but will not disturb findings of fact unless they are unsupported by substantial evidence. *Stagg v. Vintage Place*, 796 N.W.2d 312, 315 (Minn. 2011); *Ywswf v. Teleplan Wireless Servs., Inc.*, 726 N.W.2d 525, 529 (Minn. App. 2007). Construing the statutes governing eligibility for unemployment benefits is a question of law subject to de novo review. *Lolling v. Midwest Patrol*, 545 N.W.2d 372, 375 (Minn. 1996); *Bakkuri v. Dept. of Emp't & Econ. Dev.*, 729 N.W.2d 20, 21 (Minn. App. 2007).

The ULJ's decision is supported by the facts and the law. As to the facts, the record shows that relator, who had received at least one written warning for tardiness, called in sick on May 7, 2011, a day that she had requested to take time off. Her supervisor had responded to her request by telling relator that she could either leave work

four hours early on May 7 or take that day off if she found a replacement worker. Although relator did not find a replacement worker, she called in sick. Two days later, on May 9, 2011, relator informed her supervisor that she would not be able to work because her car had been towed. She was dismissed from her employment on the next day. The ULJ determined that this conduct constituted misconduct that precluded relator from being eligible to receive unemployment benefits.

Although the dismissal was harsh, the ULJ's decision is supported by law. Relator's conduct was not an isolated instance of misconduct, and the record supports the ULJ's decision. *See* Minn. Stat. § 268.095, subd. 6 (2010) (defining employment misconduct); *Stagg*, 796 N.W.2d at 317 (holding that employee discharged for excessive absenteeism and tardiness committed employment misconduct); *Del Dee Foods, Inc. v. Miller*, 390 N.W.2d 415, 417 (Minn. App. 1986) (holding that even a single work absence without permission may constitute misconduct); *Little v. Larson Bus Serv.*, 352 N.W.2d 813, 815 (Minn. App. 1984) (stating that an employer has a reasonable expectation that employee will work scheduled hours).

In her pro se appellate brief, relator contends that she did not neglect her job by missing work on May 7, 2011, because she had asked for the day off and had found another employee to cover for her. She also appears to argue that she and her supervisor had a personality conflict that precipitated her discharge. As to the first claim, the ULJ determined that relator's absence was "willful failure to comply with [her supervisor's] reasonable directive." Respondent's policy, of which relator was informed, required two employees to be assigned to work in relator's designated area; relator's "replacement"

worker was already assigned to work in relator's designated area on May 7. As to the second claim, the ULJ found that relator was discharged not because of any personality conflict, but because of a legitimate reason: her tardiness and absenteeism. *See Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006) (stating that appellate court defers to ULJ's credibility determinations).

On the record presented, there is substantial evidence to support the ULJ's decision, and relator has not demonstrated a factual or legal basis for altering that decision.

Affirmed.