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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-0795**

Carla L. Brunner,
Relator,

vs.

United Parcel Service Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed April 29, 2008
Affirmed
Kalitowski, Judge**

Department of Employment and Economic Development
File No. 1674 07

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Considered and decided by Minge, Presiding Judge; Kalitowski, Judge; and
Connolly, Judge.

UNPUBLISHED OPINION

KALITOWSKI, Judge

Relator Carla L. Brunner challenges the decision of the unemployment law judge (ULJ) disqualifying her from receiving unemployment compensation benefits because she had been discharged for misconduct after violating the nonfraternization policy of her employer, respondent United Parcel Service Inc. (UPS). Relator argues that her behavior was not employment misconduct because (1) respondent's policy was unreasonable as applied to her; (2) her conduct was a single incident that did not significantly affect respondent; and (3) her conduct was a good-faith error in judgment. We affirm.

DECISION

This court must affirm the determination of a ULJ unless the decision derives from unlawful procedure, relies on an error of law, is unsupported by substantial evidence, or is arbitrary and capricious. Minn. Stat. § 268.105, subd. 7(d)(3)-(6) (2006). Factual findings are reviewed in the light most favorable to the decision and will not be disturbed as long as there is evidence that reasonably tends to support those findings. *Schmidgall v. FilmTec Corp.*, 644 N.W.2d 801, 804 (Minn. 2002). “Credibility determinations are the exclusive province of the ULJ and will not be disturbed on appeal.” *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 345 (Minn. App. 2006).

Employment misconduct is “any intentional, negligent, or indifferent conduct, on the job or off the job (1) that displays clearly a serious violation of the standards of behavior the employer has the right to reasonably expect of the employee, or (2) that displays clearly a substantial lack of concern for the employment.” Minn. Stat.

§ 268.095, subd. 6(a) (2006). “[A] single incident that does not have a significant adverse impact on the employer, . . . [or a] good faith error[] in judgment if judgment was required” is not employment misconduct. *Id.* “Whether a particular act constitutes disqualifying misconduct is a question of law, which this court reviews de novo.” *Schmidgall*, 644 N.W. 2d at 804.

Here, relator does not challenge the ULJ’s finding that she was romantically involved with another UPS employee when she was terminated. Rather, she contends that her behavior was not employment misconduct because (1) respondent’s policy was unreasonable as applied to her; (2) her conduct was a single incident that did not significantly affect UPS; and (3) her conduct was a good-faith error in judgment. We disagree.

Reasonableness of Applying Respondent’s Nonfraternization Policy to Relator

Relator argues that it was unreasonable for respondent to require her to end a seven-month relationship in order to comply with its nonfraternization policy. Relator claims that she did not know that managers were prohibited from dating other employees when she became a manager in May of 2006 and that she was not involved in a romantic relationship at that time. But the ULJ found that, before relator was promoted to a management position, a human resource supervisor explained that UPS managers “were not allowed to date or have romantic relationships with anyone employed by UPS. [Relator] conveyed that she understood” This finding is supported by substantial evidence. Because there is evidence that relator understood the policy when she was

promoted, and before she was involved in a prohibited relationship, we cannot conclude that respondent's nonfraternization policy was unreasonable as applied to relator.

Moreover, the ULJ listed several business reasons for respondent's policy supporting the ULJ's conclusion that the policy was reasonable. We conclude that the ULJ's determination that relator's "course of conduct exhibited a serious violation of the standards of behavior that UPS had the right to reasonably expect of her" is supported by substantial evidence, not erroneous, and not arbitrary and capricious.

Single Incident Lacking a Significant Adverse Impact

We reject relator's contention that she should not be disqualified from receiving unemployment compensation benefits because her relationship with another UPS employee was a "single incident." The record shows that relator carried on the relationship for seven months before she was terminated. And relator's refusal to break off the relationship in January of 2007 was a second incident. Moreover, the ULJ found that relator's conduct was harmful to respondent:

[Relator's] own testimony reflects that employees in her work group were aware of her romantic relationship. As a supervisor, her known violation of UPS policy set a bad example for her work group, and her relationship clearly exposed UPS to prospective sexual harassment claims, charges of favoritism, potential conflicts of interest, misunderstandings, and breaches of confidentiality.

Because the record supports this finding, relator's argument that her conduct was "a single incident that [did] not have a significant adverse impact on" respondent fails. *See* Minn. Stat. § 268.095, subd. 6(a).

Good-Faith Error in Judgment

Finally, relator cannot show that her violation of the nonfraternization policy was a good-faith error in judgment because no judgment was required. The ULJ found that “the policy was made clear to [relator] and despite her comprehension, she conveyed to UPS that if she were allowed to retain her employment, she would continue to violate the policy.” The policy did not grant supervisors any discretion to engage in romantic relationships with other UPS employees. Such conduct was strictly prohibited, and when she was terminated, relator understood that policy. Accordingly, relator has not shown that her conduct was a good-faith error in judgment.

Affirmed.