

IN THE UTAH COURT OF APPEALS

-----ooOoo-----

Jason W. Ivie,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Petitioner,	)	
	)	Case No. 20060860-CA
v.	)	
	)	F I L E D
Department of Workforce	)	(December 29, 2006)
Services, Workforce Appeals	)	
Board,	)	2006 UT App 521
	)	
Respondent.	)	

-----

Original Proceeding in this Court

Attorneys: Jason W. Ivie, Bountiful, Petitioner Pro Se  
Suzan Pixton, Salt Lake City, for Respondent

-----

Before Judges Bench, Greenwood, and Thorne.

PER CURIAM:

Jason W. Ivie petitions for review of the Workforce Appeals Board's (the Board) decision affirming the denial of unemployment benefits because Ivie was discharged for cause. This is before the court on its own motion for summary disposition based on the lack of a substantial question for review.

This court will reverse an administrative agency's required findings of fact "only if the findings are not supported by substantial evidence." Drake v. Industrial Comm'n, 939 P.2d 177, 181 (Utah 1997). This court will not disturb the Board's conclusion regarding the application of law to facts unless it "exceeds the bounds of reasonableness and rationality." Nelson v. Department of Employment Sec., 801 P.2d 158, 161 (Utah Ct. App. 1990).

Ivie asserts that the administrative law judge erred at the hearing by attempting to allow an individual to testify improperly. Ivie objected to the proposed witness. The proposed witness did not, in fact, testify. As a result, there is no error.

Ivie also asserts that he was denied access to a video tape. There is no record support for this claim. The issue is raised for the first time on appeal, and therefore, is not properly before this court. See Esquivel v. Labor Comm'n, 2000 UT 66, ¶34, 7 P.3d 777.

Ivie also, in essence, challenges the agency's findings of fact. He urges his own interpretation of the testimony without legal argument. However, testimony of several witnesses was consistent about both the phone calls and the incident where the bundle was taken. The testimony clearly established that Ivie repeatedly made phone calls to the work floor and made a couple of calls to workers' homes. There was also testimony that no supervisor gave permission to take the bundle. There is substantial evidence in the record supporting the Board's findings of fact.

Accordingly, the Board's order is affirmed.

---

Russell W. Bench,  
Presiding Judge

---

Pamela T. Greenwood,  
Associate Presiding Judge

---

William A. Thorne Jr., Judge