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Minn. Stat. § 480A.08, subd. 3 (2006).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-1101, A07-1102**

Robert W. Fluegge,
Relator,

vs.

Rademacher Companies, Inc.,
Respondent

Department of Employment
and Economic Development
Respondent.

**Filed June 17, 2008
Affirmed
Crippen, Judge***

Department of Employment and Economic Development
File No. 2028 07

Robert W. Fluegge, 10791 Woodland Drive, Chisago City, MN 55013 (pro se relator)

Rademacher Companies Inc., 14021 Roundlake Blvd. NW, Andover, MN 55304
(respondent)

Lee B. Nelson, Katrina I. Gulstad, Department of Employment and Economic
Development, 1st National Bank Building, 332 Minnesota Street, Suite E200, St. Paul,
MN 55101-1351 (for respondent Department of Employment and Economic
Development)

Considered and decided by Toussaint, Chief Judge; Connolly, Judge; and Crippen,
Judge.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

CRIPPEN, Judge

Relator Robert Fluegge challenges an unemployment law judge's (ULJ) determination that he was disqualified from prior benefits, which must be repaid, because he had been discharged for employment misconduct after leaving his shift early. Because the ULJ did not err in concluding that relator's employer has the right to reasonably expect that its employees will work their scheduled shifts, we affirm.

FACTS

Relator began working for respondent Rademacher Companies, Inc. as a part-time gas station cashier in September 2005. He continued to receive reduced unemployment benefits as a result of his separation from his previous job. On January 11, 2006, relator was working the cash register during a busy period at the gas station. Other employees were cleaning and stocking shelves. Relator asked the others for assistance, but no one complied. Frustrated, relator punched out of his shift approximately an hour and a half early without telling his supervisor. Later that day, his manager learned that relator had walked off the job and assumed that he had quit. But early the next morning, relator arrived for his shift; the manager fired him.

Relator continued to receive unemployment benefits until July 2006 because he did not notify the Department of Employment and Economic Development that he had been discharged from his employment with respondent. After the department learned of the facts, it determined that relator was disqualified from receiving unemployment benefits as a result of his discharge in January 2006. Relator challenged this

determination, and the ULJ determined that relator was discharged for employee misconduct and that he had been overpaid employment benefits.

D E C I S I O N

We will affirm the ULJ's determination unless the decision derives from unlawful procedure, relies on an error of law, or is unsupported by substantial evidence. Minn. Stat. § 268.105, subd. 7(d)(3)-(5) (2006). A person who is discharged for misconduct is disqualified from receiving unemployment benefits. Minn. Stat. § 268.095, subd. 4(1) (2006). Whether a particular act constitutes misconduct is a question of law, reviewed de novo. *Schmidgall v. FilmTec Corp.*, 644 N.W.2d 801, 804 (Minn.2002).

Misconduct is any intentional, negligent, or indifferent conduct that violates the standards of behavior the employer has the right to reasonably expect of the employee. Minn. Stat. § 268.095, subd. 6(a)(1) (2006). There is no dispute that relator became frustrated and left his shift early. The evidence supports the ULJ's finding that respondent reasonably expected that its employees would work their entire shifts as scheduled and that if an employee needed to leave early, he or she would inform a supervisor. Thus, the ULJ properly concluded that relator's conduct "clearly displayed a serious violation of the standards of behavior that [respondent] had the right to reasonably expect."

The statute excepts from the definition of misconduct "a single incident that does not have a significant adverse effect on the employer." *Id.*, subd. 6(a). Relator was discharged for a single incident involving his loss of temper. But relator also left work without explanation, and this conduct had a significant adverse effect because he

abandoned an important task at a time of busy business activity; the ULJ did not err in finding that relator's conduct came within the general definition of misconduct and not within this exception.

We affirm the ULJ's finding that relator was discharged for employment misconduct and the resulting conclusion that relator received but must repay benefits for which he was disqualified.

Affirmed.