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Minn. Stat. § 480A.08, subd. 3 (2008).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A08-1675**

Christinna Ozangar,  
Relator,

vs.

Walgreen,  
Respondent,

Department of Employment and Economic Development,  
Respondent.

**Filed July 14, 2009  
Affirmed  
Johnson, Judge**

Department of Employment and Economic Development  
File No. 20831416

Christinna Ozangar, P.O. Box 16001, St. Paul, MN 55116 (pro se relator)

Walgreen, Talx UCM Services, P.O. Box 283, Saint Louis, MO 63166-0283 (respondent)

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Considered and decided by Johnson, Presiding Judge; Peterson, Judge; and Connolly, Judge.

## **UNPUBLISHED OPINION**

**JOHNSON**, Judge

Walgreen Co. (hereinafter Walgreens) terminated the employment of Christinna Ozangar after discovering that she had violated company policy by handling her own photoprocessing order and marking it at a price below the regular price. Ozangar sought unemployment benefits. An unemployment law judge (ULJ) deemed her ineligible on the ground of employment misconduct. We affirm.

### **FACTS**

Ozangar worked for Walgreens for approximately 26 months as head photo specialist at a store on University Avenue in the city of St. Paul. In mid-April 2008, one of Ozangar's co-workers reported to the store manager that Ozangar had incorrectly priced an order of her own photographs, to her advantage. It was a violation of company policy for Ozangar to handle her own photoprocessing order. It also was a violation of company policy for Ozangar to price the order at \$2.99 when the price should have been \$28.08. When a loss-prevention supervisor investigated the matter, Ozangar admitted that she had violated company policy by handling her own photoprocessing order and that she knew that \$2.99 was not the correct price. Ozangar was terminated on April 22, 2008.

Ozangar requested unemployment benefits. The Minnesota Department of Employment and Economic Development (DEED) initially determined that she was eligible. Walgreens appealed the determination of eligibility. After a telephonic hearing, a ULJ reversed the initial determination. The ULJ found that Ozangar engaged in a

“deliberate course of conduct that was dishonest and exhibited a serious violation of the standards of behavior that Walgreens had the right to reasonably expect of her.” The ULJ concluded that Ozangar committed employment misconduct and, thus, is ineligible for unemployment benefits. Upon Ozangar’s request for reconsideration, the ULJ affirmed the decision of ineligibility. Ozangar appeals by way of a writ of certiorari.

## **D E C I S I O N**

This court reviews a ULJ’s decision denying unemployment benefits to determine whether the findings, inferences, conclusions of law, or decision are affected by an error of law or are unsupported by substantial evidence in view of the entire record. Minn. Stat. § 268.105, subd. 7(d) (Supp. 2007). The ULJ’s factual findings are viewed in the light most favorable to the decision being reviewed. *Skarhus v. Davanni’s Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). The ultimate determination whether an employee was properly found to be ineligible for unemployment benefits is a question of law, which is subject to a *de novo* standard of review. *See id.*

The ULJ determined that Ozangar is ineligible for unemployment benefits because she was discharged for employment misconduct. “An applicant who was discharged from employment by an employer is ineligible for all unemployment benefits . . . if . . . the applicant was discharged because of employment misconduct as defined in subdivision 6.” Minn. Stat. § 268.095, subd. 4, 4(1) (Supp. 2007). “Employment misconduct” is defined as intentional, negligent, or indifferent conduct that clearly displays either “a serious violation of the standards of behavior the employer has the right to reasonably expect” or “a substantial lack of concern for the employment.”

Minn. Stat. § 268.095, subd. 6(a) (Supp. 2007). The definition, however, does not include “a single incident that does not have a significant adverse impact on the employer.” *Id.*

The ULJ found that Ozangar was terminated for employment misconduct because she violated Walgreens’s policy prohibiting employees from handling their own photoprocessing orders and because she had intentionally underpriced her order. Ozangar argues on appeal that she knew the film order was priced incorrectly but intended to correct the price before actually paying for it. This argument does not overcome the fact that Ozangar violated company policy simply by handling her own order, which Ozangar admitted at the agency hearing. She also admitted that she knew the \$2.99 price was far below the regular price of the order and that she was not authorized to grant herself such a discount. Ozangar’s argument that she intended to mark the price correctly before completing her purchase is contradicted by the ULJ’s finding of fact that Ozangar “admitted that she was going to purchase the order at the price she had placed on the envelope, \$2.99.” This finding is supported by the testimony of the loss-prevention supervisor as well as the written report of his investigation, in which he wrote that Ozangar “stated that she was going to purchase the order at the cheaper price.” We must “view the ULJ’s factual findings in the light most favorable to the decision, giving deference to the credibility determinations made by the ULJ.” *Skarhus*, 721 N.W.2d at 344 (citation omitted).

Ozangar’s argument that she did not actually complete her purchase conceivably could satisfy the statutory exception to misconduct for “a single incident that does not

have a significant adverse impact on the employer.” Minn. Stat. § 268.095, subd. 6(a). In *Skarhus*, this court examined a similar one-time policy violation. A cashier at a restaurant intentionally undercharged herself for a food order. 721 N.W.2d at 342. Although the value of the undercharge was less than four dollars, this court held that Skarhus’s employment misconduct had a “significant adverse impact” on the employer because Skarhus’s job responsibilities required her to handle money and to accurately account for items sold. *Id.* at 344. We reasoned that, after the violation, the employer “could no longer entrust her with those responsibilities” and, thus, the employer’s “ability to assign the essential functions of the job to its employee was undermined by the employee’s conduct.” *Id.* This case is akin to *Skarhus*. Ozangar worked as the head photo specialist. The ULJ essentially concluded that Walgreens “could no longer entrust her with [her job] responsibilities.” 721 N.W.2d at 344. Walgreens’s mistrust of Ozangar had a significant adverse impact on Walgreens’s ability to assign the essential functions of Ozangar’s job to her. *See id.* Thus, Ozangar’s actions are not within the single-incident exception to employment misconduct.

In sum, the ULJ did not err by concluding that Ozangar is ineligible for unemployment benefits because she committed employment misconduct.

**Affirmed.**