

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Bridgette M. Chabot,)
)
Appellant,)
)
v.)
)
South Carolina Department of Employment and)
Workforce and Wells Fargo & Company, Inc,)
)
Respondents.)
_____)

Docket No. 23-ALJ-22-0379-AP¹

**AMENDED FINAL
ORDER**

RECEIVED

Feb 23 2024

SC Court of Appeals

This matter is before the Administrative Law Court (ALC or court) pursuant to a Notice of Appeal filed on September 13, 2023 by Bridgette M. Chabot (Appellant). The Appellant seeks judicial review of the South Carolina Department of Employment and Workforce Appellate Panel's decision affirming the Appeal Tribunal's decision holding the Appellant disqualified from receiving benefits for twenty (20) weeks, effective May 7, 2023 through September 23, 2023, with a corresponding monetary reduction, upon finding she was discharged for misconduct connected with her employment.

On November 16, 2023, the court granted the Appellant Motion for Continuance giving the Appellant twenty (20) days to file the Appellant's brief. On December 6, 2023, the Appellant filed her brief with the court. On December 18, 2023, the court granted the Department's request for an additional twenty (20) days to file the Respondent's brief. On January 16, 2024, the Department filed the Respondent's brief with the court. On January 19, 2024, the Appellant filed a Motion for Default Judgment because the Respondent did not file a timely brief. On January 26, 2024, the Department filed a response to the Appellant's motion, requesting the court dismiss the Appellant's motion because the Appellant's argument is manifestly without merit. The Department argues that because the Appellant filed her brief on December 6, 2023, pursuant to SCALC Rule 37A, the Respondent's brief would have been due by December 26, 2023. Due to holiday leave, the Department filed a Motion for Extension of Time requesting an additional twenty (20) days to file the Respondent's brief, making the Respondent's brief due January 15, 2024. However,

¹ The Final Order issued on February 8, 2024 incorrectly listed the case Docket Number as 23-ALJ-22-0342-AP. This Amended Final Order is issued with the correct case Docket Number.

The State of South Carolina
FILED
FEB 13 2024
Administrative Law Court

because Monday, January 15, 2024 was a holiday, in accordance with SCALC Rule 3A, the time period runs until the end of the next day which is not a holiday, in this case, January 16, 2024.

After careful consideration of the parties' briefs, the record, and the applicable law, the court finds that substantial evidence in the record supports the Appellate Panel's determination. Accordingly, the Appellate Panel's decision is affirmed.

BACKGROUND

The Appellant worked for Wells Fargo & Company, Inc., (Employer) from January 27, 2020 to May 9, 2023, most recently as a bank teller. The Employer discharged the Appellant for falsifying bank records by using a manger's credentials to approve a customer's transaction in excess of the Appellant's approved limit. The Appellant was authorized to approve customer transactions up to \$100,000. On January 31, 2023, the Appellant had a customer transaction of \$300,000. The branch manager was out of the office that week, so the Appellant contacted the North Myrtle Beach branch manager, who authorized the Appellant to use her credentials to approve the transaction. On February 2, 2023, a regular customer came into the Appellant's branch. A coworker attempted to perform the transaction, but realized he needed authorization for a \$156,000 transaction. The Appellant informed the coworker to contact a manager for authorization. While the coworker was attempting to reach a manager, the Appellant assisted the customer by questioning the customer about his transaction. The coworker was unable to reach a manager by phone. The Appellant entered the North Myrtle Beach branch manager's credentials to approve the transaction and notated that the approver not present. The coworker printed the cashier's check for the customer. The Appellant handed the cashier's check to the customer. The North Myrtle Beach branch manager received an email that her credentials were used and notified the district manager. The Employer conducted an investigation interviewing all of the parties involved and reviewing surveillance video and documentation. Upon conclusion of the investigation, the Employer discharged the Appellant.

STANDARD OF REVIEW

The Department is an "agency" under the Administrative Procedures Act (APA). *See Gibson v. Florence Country Club*, 282 S.C. 384, 386, 318 S.E.2d 365, 367 (1984) (finding that the Employment Security Commission, a predecessor of the Department, was an agency within the meaning of the APA). Accordingly, the APA's appellate standard governs appeals from

Department decisions. *See* S.C. Code Ann. § 1-23-380 (Supp. 2020); S.C. Code Ann. §1-23-600(D) (Supp. 2020); *Gibson*, 282 S.C. at 386, 318 S.E.2d at 367.

Section 1-23-380(5) of the South Carolina Code provides the standard of review to be utilized by appellate bodies, including the ALC, when reviewing Department decisions:

The court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380(5) (Supp. 2020); S.C. Code Ann. § 1-23-600(E) (Supp. 2020) (directing administrative law judges to conduct appellate review in the same manner as prescribed in Section 1-23-380).

This court’s review in appellate cases is limited to the record. *See* S.C. Code Ann. § 1-23-380(4) (Supp. 2020); SCALC Rule 36(G). “‘Substantial evidence’ is not a mere scintilla of evidence nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion that the administrative agency reached” *Lark v. Bi-Lo, Inc.*, 276 S.C. 130, 135, 276 S.E.2d 304, 306 (1981). “The limited substantial evidence standard of review is intended only to assure that the [agency’s] action is properly supported and that, therefore, no abuse of delegated authority occurred.” *Fast Stops, Inc. v. Ingram*, 276 S.C. 593, 595, 281 S.E.2d 118, 119 (1981). Thus, the fact that the record, when considered as a whole, presents the possibility of drawing two inconsistent conclusions from the evidence does not prevent the agency’s findings from being supported by substantial evidence. *Waters v. S.C. Land Res. Conservation Comm’n*, 321 S.C. 219, 226, 467 S.E.2d 913, 917 (1996).

In applying the substantial evidence rule, the factual findings of the administrative agency are presumed to be correct. *Rodney v. Michelin Tire Corp.*, 320 S.C. 515, 519, 466 S.E.2d 357,

359 (1996). A reviewing court is prohibited from substituting its judgment for that of the agency as to the weight of the evidence on questions of fact for which there is room for a difference of intelligent opinion. *See Byerly Hosp. v. S.C. State Health & Human Servs. Fin. Comm'n*, 319 S.C. 225, 229, 460 S.E.2d 383, 386 (1995). Accordingly, “a reviewing court will not overturn a finding of fact by an administrative agency ‘unless there is no reasonable probability that the facts could be as related by a witness upon whose testimony the finding was based.’” *Sea Pines Ass’n for Prot. of Wildlife, Inc. v. S.C. Dep’t of Nat. Res.*, 345 S.C. 594, 603-04, 550 S.E.2d 287, 292 (2001). The party challenging an agency action on appeal has the burden of proving convincingly that the agency’s decision is unsupported by substantial evidence. *Waters*, 321 S.C. at 226, 467 S.E.2d at 917.

DISCUSSION

Subsection 41-35-120(2)(a) of the South Carolina Code requires disqualification from benefits for twenty (20) weeks, with a corresponding monetary reduction, when the Department finds a claimant has been discharged for misconduct connected with the employment. “Misconduct” is limited to conduct evincing such willful and wanton disregard of an employer’s interest as is found in deliberate violations or disregard of standards of behavior which the employer has the right to expect of his employee, or in the carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent, or evil design, or to show an intentional and substantial disregard of the employer’s interest or of the employee’s duties and obligations to his employer. *Id.*

The record establishes that the Appellant used a branch manager’s credentials to approve a customer transaction that exceeded her authorized limit. The Appellant asserts that when she called the North Myrtle Beach branch manager on January 31, 2023 to get her approval for the \$300,000 transaction, the manager told her that she could use her number anytime because the manager trusted the Appellant’s judgment. Therefore, the Appellant thought she could use the manger’s credentials to approve regular customer’s transaction without verbal authorization from the manager. The Appellant also stated that the branch managers’ credentials for transaction approval were left at a desk for employees to access.

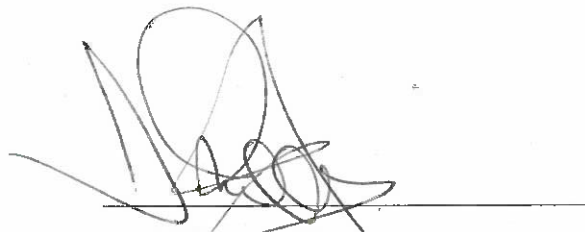
However, the Employer’s purpose for placing a limit on the Appellant’s (or any employee’s) ability to authorize transactions was to ensure a member of management reviewed a large transaction for approval to protect the Employer from liability. Further, based on the

Appellant's acknowledged contact with the North Myrtle Beach branch manager on January 31, 2023 and the Appellant's instruction to the coworker to obtain management authorization, the Appellant knew the Employer's policy and procedure. Additionally, the Appellate Panel did not find credible the Appellant's statement that the branch manager the Appellant reported for harassment is the same branch manager who then gave the Appellant broad use of her credentials. The Appellant's failure to obtain approval from a manager to authorize a transaction in excess of her \$100,000 limit is a deliberate violation and disregard of the standards of behavior which the Employer had a right to expect. Therefore, based on the foregoing,

IT IS HEREBY ORDERED that the Department's determination is **AFFIRMED**.

IT IS FURTHER ORDERED that the Appellant's Motion for Default Judgment is **DENIED**.

AND IT IS SO ORDERED.

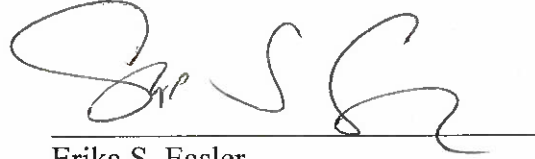


S. Phillip Lenski
Administrative Law Judge

February 13, 2024
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Erika S. Easler, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).



Erika S. Easler
Judicial Law Clerk

February 13, 2024
Columbia, South Carolina

