

**THE STATE OF SOUTH CAROLINA  
In The Supreme Court**

Mckinley Wright Jr., Petitioner,

v.

South Department of Workforce and

SEFA Transportation, Respondent.

Appellate Case No. 2022-000068

**RECEIVED**

MAY 02 2022

**SC Court of Appeals**

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**ON WRIT OF CERTIORARI TO THE COURT OF APPEALS**

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Appeal From Supreme Court in  
Columbia South Carolina

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Opinion No. 28025

Heard February 21, 2022- Filed March 29, 2022

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**REVERSED AND REMANDED**

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Appellate Defender Mckinley Wright Jr., of Johnsonville  
SC, for Petitioner.

South Carolina Department of Workforce of Columbia  
SC, and SEFA Transportation of Lexington SC for  
Respondent.

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**SOUTH CAROLINA COURT APPEALS: Mckinley Wright Jr.,  
Appellant, v.**

**South Carolina Department of Employment and Workforce and SEFA  
Transportation, Inc., Respondents.**

Appellate Case No. 2022-000068

Appellant has filed a motion to reinstate this appeal, which we construe as a petition to rehear the dismissal. After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

### I. FACTS

My name is Mckinley Wright Jr., the reason why I am asking ya'll to please review this case is because I did everything that was right on the job and the South Carolina Unemployment and Workforce and SEFA Transportation took all of my civil rights away from me all because of a lie that Cory Robinson wrote stating that I was unsafe on the job. He wrote that lie behind my back without discussing it to me after I gave him my report of what happened on the job. I gave him my report at Oakridge landfill on March 13, 2020. And he called me back on that Sunday evening on March 15, 2020 and told me he had to write another report because he gave my report to Jody Neuroth the safety specialist. I told him I had already given him my report and on March 17, 2020 he called me back that evening and told me that Tiffany Peake and Billy Bronson had terminated me. And he told me it was wrong what they did to me. And he was the one that wrote the lie for me to be fired. And SEFA Transportation lied and said that I did not report the overweight load to any SEFA employee. And on March 12, 2020 I was coming back from Oakridge landfill back to Georgetown to get off of work and Cory Robinson the supervisor called me on the phone, and told me to go by Winyah Star Plant to pick up a trailer load of ash to take to Oakridge landfill on March 13, 2020. And when I hooked to the trailer, I went and weighed the truck on the scale and the truck had 99,970 in it. I called Cory and told him he needed to talk to the people at Winyah Star Plant, overloading the trailer trying to put two loads on one trailer. And he told me, just right my time down when I get to the yard. So, I went back to the pad to dump half of the load out to get it to the right weight to go on the road with it. And the next morning on March 13, 2020, I took the load to Oakridge landfill. When I got to Oakridge landfill, the backhold loader was pushing the bad ash up at Oakridge landfill and I was circling the truck around to back up to dump the bad ash and the Oakridge landfill loader had called me and showed me where to dump the bad ash at. And when I was lifting the bed up the truck tipped over on the right side of me. And I called Cory Robinson the supervisor, and told him what happened and he told me he was on the way coming to me, but Tommy the supervisor from St. George Plant came to me first. And when he got there, he looked at the trailer and told me it looked like whoever loaded the trailer, put too much ash on one side of the trailer to cause it to roll over. And Jody Neuroth was the second person that came to me and he looked at the trailer and said that the ground was level, and I told Jody Neuroth that I told Cory Robinson on the 12<sup>th</sup> that the trailer had 99,970 in it, and I told him that he needed to talk to the people at Winyah Star Plant. And I was fired all because SEFA Transportation lied and said that I did not report the overweight truck to any employee and they know that I did. I

was fired because they got mad because the truck rolled over and because I was black, they fired me, but they know that the bad wet ash caused the truck to roll over. And after they fired me, they stopped all the trucks like I was driving coming into Oakridge landfill junk yard and started putting the ash in a belt trailer that spins the ash out. And the ash got stuck in the belt trailer and wouldn't come out the trailer. And the driver had to bring it back to the plant. That shows the evidence they know that the wet bad ash caused the truck to turn over and they framed me with it. So, anyone that knows about safety knows that SEFA Transportation covered the evidence up and stopped the trucks from coming in there. That is the reason why they know the wet bad ash caused the truck to turn over.

4/26/22

Addressed to South Carolina Supreme Court:

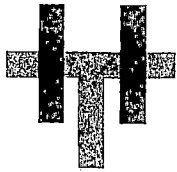
My name is Mckinley Wright Jr., the reason why I am asking ya'll to appeal the Appellate Case No. 2022-000068 is because it was unjustified the way SEFA Transportation fired me on March 13 2020 during the pandemic on the same day my daughter came home from school because of the pandemic. All because of a lie they know that didn't fit. And I was hurt on the job and fired at the same time. And the doctor was treating me and they stopped me from seeing the doctor. And denied my Workers Compensation benefit money. And denied my Unemployment benefit. All because of a lie and The South Carolina Department of Unemployment and Workforce and SEFA Transportation Inc. took all of my civil rights from me saying I had a misconduct on the job. And I did everything that was right on the job, I did what the supervisor told me to do. And SEFA Transportation are the ones with the outrageous behavior and the South Carolina Department of Unemployment and Workforce agreed with them to fire me like that during the pandemic with no help and Unemployment. And the Honorable Shirley C. Robinson left out all of my information that I sent to the State of South Carolina Administrative Law Court. She wrote in her ruling that I lifted the overweight truck at Oakridge landfill and I wrote in my report that the truck was not overweight when I took it to Oakridge landfill. And the attorney for SEFA Transportation Grant M. Wills was so busy lying for SEFA Transportation to Honorable Shirley C. Robinson that he wrote in his report that I drove the overweight truck to Oakridge landfill. And the truck was not overweight. And the attorney, Stephen A. Jordan, Jr. for South Carolina Department of Unemployment and Workforce, he also lied and said that I did not report the overweight truck to any SEFA Transportation employee. And he also agreed for me to not get any unemployment benefit. And they all know that I am telling the truth. The evidence that they are presenting does not match the case. And they said that I was unsafe on the job. And they know that's not the truth. And none of SEFA supervisors ever been to Oakridge landfill junk yard and said that I was unsafe. And SEFA Transportation Inc. did not give me a drug test and they did not find any alcohol in my system. So, they cannot say that I was unsafe on the job, because if I was, they would have given me a drug test. And the South Carolina Court of Appeals took all of my civil rights and said that they don't see anything that they overlooked and they know that the evidence doesn't match what South Carolina Department of Unemployment and Workforce and SEFA Transportation is presenting to the court. And the South Carolina of Unemployment and Workforce took my state income tax this year all because of a lie. And Jody Neuroth SEFA Transportation safety specialist already testified and said that he can't say that I was unsafe on the job because the truck was already turned over when he got there at Oakridge landfill. And they still fired me. I am also sending a copy of the deposition of Cory Robinson and Jody Neuroth, it was determined that several documents were not provided in the violation of the subpoena for the Workers Comp. attorney. And SEFA Transportation lied and said on February 9, 2017 I received a final written warning

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for hitting a legally parked vehicle, it was a verbal warning for 90 days. And it was a minor incident, my back tire barely touched the pick-up. And that was three years ago and that has nothing to do with what happened at Oakridge landfill on March 13, 2020. And they know that, but they are trying to frame me and make me look bad like I did something terrible. And what they are presenting to the court doesn't match the case.

Thank you,

Mckinley Wright Jr.



**HATFIELD TEMPLE** LLP  
**ATTORNEYS**

**WILLIAM P. HATFIELD\***  
**E. HOOD TEMPLE**  
**ALEXANDER S. HOGSETTE**

\*Board Certified Civil Trial Specialist by the Nation Board of Trial Advocacy

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July 21, 2020

**VIA EMAIL ONLY TO: [allison.nussbaum@mqclaw.com](mailto:allison.nussbaum@mqclaw.com)**

Allison C. Nussbaum  
McAngus, Goudelock & Courie, L.L.C.  
Post Office Box 650007  
Mt. Pleasant, SC 29465

Re: McKinley Wright v. The SEFA Group Inc  
and Southeastern Fly  
Our File # 2020047

Dear Allison:

During the depositions of Corey Robinson and Jody Neuroth, it was determined that several documents were not provided in violation of our subpoena. Specifically, Jody Neuroth testified that he prepared an investigation summary. He also testified that there was an on board video at the time of the accident showing the Claimant. Corey Robinson testified additionally about the video and that there was a handwritten statement from the Claimant.

Please provide those documents to me. If you are not willing to provide those, please let me know so that I can address that issue with the Commission.

Thank you for your attention to this matter.

With kindest regards, I am

Yours very truly,

  
E. HOOD TEMPLE

EHT:aym  
cc: Mr. McKinley Wright

1/11/22

To: South Carolina Court Appeals.org

Docket No. 21-ALJ-22-0180-AP

To whom this may concern:

My name is Mckinley Wright Jr. the reason why I am appealing the Honorable Judge Shirley C. Robinson ruling and decision is because she left out all my information and evidence that I wrote to the Administrative Law Court concerning SEFA Transportation and South Carolina Department of Unemployment and Workforce. I was fired because of a lie Cory Robinson the supervisor for SEFA Transportation wrote behind my back just to satisfy Jim Widowfield the president of SEFA Transportation saying that I was unsafe and I called him and told him that he needed to talk to the people at Winyah Star Plant overloading the truck trying to put two loads on one trailer he did not tell me anything but to write my time down when I got to the yard and the next morning I took that load to Oakridge landfill and when I was backing the truck up to dump the load the backhold loader told me to bring it closer to him when I was lifting the bed the truck turned over on the right side on me and that's why they got mad and fired me. Tommy the supervisor from St. George Plant was the first one to come to me and said whoever load the truck put too much on one side causing it to flip over. Jody Neuroth the safety man testified and said that he cannot say that I was unsafe but they still fired me. None of SEFA's supervisors have been to Oakridge landfill until the accident happened and after they fired me they stopped the trucks like I was driving from going in there and started putting the material on a belt trailer and the ash got stuck on the belt trailer and wouldn't come out and it was unjustified the way SEFA Transportation fired me in the midst of the pandemic and I was hurt on the job and stopped me from seeing the doctor when he was treating me and deny my workers comp. and unemployment benefits and South Carolina Department of Unemployment and Workforce and Honorable Judge Shirley Robinson said I had misconduct but SEFA Transportation is the one with the racial hate behavior in their heart. I cannot see how Judge Shirley C. Robinson and South Carolina Department of Unemployment and Workforce took all my rights when I gave witness names. These are the witness names that knew that the ash was wet, Cory Robinson the supervisor, Beth Day the dispatch, Al Delp the supervisor at Winyah Star Plant and Chrysti Aman was the dispatch for SEFA Transportation and these were the drivers that were hauling the ash Pierre Deeds and Harison White and these are the loaders at Winyah Star Plant loading the ash knowing that the ash was hot and wet, Mr. Wayne and Mr. Rodger.

Sincerely,

Mckinley Wright Jr.

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

14 December 2021

McKinley Wright, Jr., )  
)  
Appellant, )  
)  
v. )  
)  
South Carolina Department of Employment )  
and Workforce and SEFA Transportation, )  
Inc., )  
)  
Respondents. )  
\_\_\_\_\_ )

Docket No. 21-ALJ-22-0180-AP

ORDER DENYING APPELLANT'S  
MOTION FOR REHEARING

RECEIVED

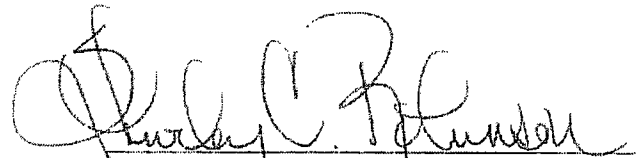
MAY 02 2022

SC Court of Appeals

This matter came before the South Carolina Administrative Law Court (ALC or Court) pursuant to the Notice of Appeal filed by McKinley Wright, Jr. (Appellant) seeking review of a final decision rendered by the Appellate Panel (Panel) of the South Carolina Department of Employment and Workforce (Department). On October 5, 2021, after careful consideration of arguments raised in the parties' briefs, and a review of the record on appeal and the law, this court issued a Final Order Affirming the Panel's decision. On October 12, 2021, Appellant filed a motion requesting a rehearing in this matter.<sup>1</sup> There is no indication that Appellant served the motion upon the Respondents and the Respondents have not filed a response to the motion.

This Court has given thoughtful review and consideration to those arguments raised in the Appellant's Motion for Reconsideration. However, Appellant does not reference a single finding of fact or conclusion of law that is not based on and supported by the substantial evidence

**IT IS THEREFORE ORDERED** that Appellant's Motion for Rehearing is **DENIED**.  
**AND IT IS SO ORDERED.**

  
**SHIRLEY C. ROBINSON**  
Administrative Law Judge

December 14<sup>th</sup>, 2021  
Columbia, South Carolina

<sup>1</sup> The clerk's office of the ALC received Appellant's motion in a timely manner but inadvertently filed it away as an appeal to the South Carolina Court of Appeals. Thus, the undersigned did not receive Appellant's motion until December 13, 2021.

The State of South Carolina  
FILED  
DEC 14 2021  
Administrative Law Court

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

McKinley Wright, Jr.,

Appellant,

vs.

South Carolina Department of Employment  
and Workforce and SEFA Transportation, Inc.

Respondents.

Docket No. 21-ALJ-22-0180-AP

ORDER

RECEIVED

MAY 02 2022

SC Court of Appeals

STATEMENT OF THE CASE

This matter is before the Administrative Law Court (ALC or Court) pursuant to McKinley Wright, Jr.'s (Appellant) appeal from the South Carolina Department of Employment and Workforce's (Department) Appellate Panel (Panel) Decision No. 21-HA-000410, affirming the decision of the Appeal Tribunal (Tribunal) finding that Appellant was disqualified from benefits on the basis he was discharged for misconduct connected with his employment. This Court has jurisdiction to hear this matter pursuant to Sections 1-23-380 and -600(E), and Section 41-35-750 of the South Carolina Code. S.C. Code Ann. § 1-23-380 and -600 (Supp. 2020); S.C. Code Ann. § 41-35-750 (2021). Upon consideration of arguments raised in the parties' briefs, and a review of the record on appeal and the law, the decision of the Department's Appellate Panel is affirmed.

BACKGROUND

Appellant was employed by SEFA Transportation, Inc. (Employer) as a truck driver from April 30, 2007, to March 16, 2020. On February 9, 2017, Appellant received a final written warning for hitting a legally parked vehicle that resulted in damage to the vehicle and Employer's truck.<sup>1</sup> The warning stated any future violations would result in immediate termination. Appellant acknowledged receipt of the warning. On March 13, 2020, Appellant lowered the truck bed of Employer's truck to dump a load of wet ash which resulted in the truck overturning. Employer determined Appellant failed to report an issue he claimed to have been experiencing with the load prior to the incident. Employer also determined Appellant failed to operate Employer's truck in compliance with Employer's safety policy while at the landfill. On April 7, 2020, Appellant

<sup>1</sup> The accident occurred on January 27, 2017.

FILED  
OCT 05 2021  
Administrative Law Court

applied for unemployment insurance benefits. On April 16, 2020, the claims adjudicator issued a determination concluding there was insufficient evidence to show wrongdoing on Appellant's part and finding Appellant eligible. By letter dated June 25, 2020, Employer appealed the claims adjudicator's decision.

On October 20, 2020, the Tribunal conducted an evidentiary hearing. Appellant and Employer's human resources director participated. In its decision mailed on October 26, 2020, the Tribunal held Appellant was discharged for misconduct and stated in part that Appellant's actions in failing to report a load issue (after having previously hit a parked car) which resulted in a truck overturning, fell below the standards of professional and safe conduct that Employer had a right to expect.

On November 5, 2020, Appellant appealed. On May 31, 2021, the Panel mailed its decision affirming the Tribunal's decision that Appellant was discharged for misconduct. The Panel stated in part:

The record establishes the Claimant repeatedly caused safety concerns while operating the Employer's truck resulting in damage to the Employer's vehicle. The Claimant knew or should have known the Employer's truck had an overweight load that could result in the truck overturning. Based on the Claimant's testimony he was aware that wet material could cause a load to be overweight and failed to inform anyone with the Employer that there could be an issue with the load being overweight on the day in question. The Claimant dumped the overweight load resulting in damage to the Employer's truck. The Claimant failed to ensure he exercised reasonable care when operating the Employer's vehicle. The Claimant's carelessness was of such frequency as to show an intentional and substantial disregard of the Employer's interests. The Claimant was discharged for misconduct connected with the employment, and we find a twenty-week disqualification is appropriate.

This appeal followed.

**ISSUE**

Whether substantial evidence exists in the record to support the Department's Appellate Panel's decision that Appellant was terminated misconduct.

**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). This Court reviews decisions of the Department in an appellate capacity

and is "restricted to reviewing the decision[s] below." *Al-Shabazz v. State*, 338 S.C. 354, 377, 527 S.E.2d 742, 754 (2000). According to Section 1-23-600(E) of the South Carolina Code, when acting in an appellate capacity, the court must apply the criteria of Section 1-23-380(5) which states:

(5) 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 (Supp. 2020).

A decision is supported by substantial evidence when the record as a whole allows reasonable minds to reach the same conclusion as the agency. *Friends of the Earth v. Pub. Serv. Comm'n of S.C.*, 387 S.C. 360, 366, 692 S.E.2d 910, 913 (2010). 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, "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 Natural Res.*, 345 S.C. 594, 603-04, 550 S.E.2d 287, 292 (2001) (quoting *Lark v. Bi-Lo, Inc.*, 276 S.C. 130, 136, 276 S.E.2d 304, 307 (1981)). When applying the substantial evidence rule, the factual findings of the administrative agency are presumed to be correct. *Rodney v. Michelin Tire Co.*, 320 S.C. 515, 466 S.E.2d 357 (1996).

Furthermore, the reviewing court is prohibited from substituting its judgment for that of the agency as to the weight of the evidence on questions of fact. *Grant v. S.C. Coastal Council*, 319 S.C. 348, 461 S.E.2d 388 (1995). Finally, the party challenging an agency action has the

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burden of proving convincingly that the agency's decision is unsupported by substantial evidence. *Waters*, 467 S.E.2d at 917.

### DISCUSSION

The public policy underlying the unemployment insurance program is to provide benefits only to those who are unemployed through no fault of their own. S.C. Code Ann. § 41-27-20 (2021); *see also* S.C. Code Ann. § 41-35-110(5) (2021) (explaining that an unemployed and insured worker is eligible to receive benefits only if he "has separated, through no fault of his own, from his most recent bona fide employer." "Misconduct" is defined as:

[C]onduct evincing such wilful and wanton disregard of an employer's interests 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 ...

S.C. Code Ann. § 41-35-120(2)(a) (2021). Misconduct includes the disregard of the standard of behavior which an employer can rightfully expect from an employee. *Mickens v. Southland Exch.-Joint Venture*, 305 S.C. 127, 130, 406 S.E.2d 363, 365 (1991) (*citing Lee v. S.C. Emp'l Sec. Comm'n*, 277 S.C. 586, 588, 291 S.E.2d 378, 379 (1982)). "[T]he general rule is that, where the employer's request is *reasonable*, a refusal to comply will constitute misconduct, justifying a discharge for cause." (emphasis in original). *Id.* "What is 'reasonable' will vary according to the circumstances of each case." *Id.*

Here, substantial evidence exists to support the Panel's decision that Appellant was discharged for misconduct connected with his employment. At the hearing before the Tribunal, Employer's human resources director testified about the written warning Appellant was given in 2017 after he hit a legally parked disabled vehicle resulting in property damage to both vehicles. Employer determined Appellant had violated its safety policy by failing to slow and move into another lane. Appellant signed the warning which stated any future moving violations or accidents would result in termination per Employer's safety policy.

With regard to the second at-fault incident, Employer testified Appellant admitted he was aware the material was too heavy when the truck was loaded. When Appellant started dumping the material at the landfill and it was not fluidly dumping, he failed to report the unloading issue. Employer also said Appellant had sufficient experience to know the truck bed needed to be lowered which would have prevented the truck tipping over.

Appellant testified when he picked up the load of ash, it was hot and had to be watered down to cool it. As a result of watering down the ash, the tractor trailer was overweight. When he lifted the bed, the truck turned over. Contrary to Employer's testimony, Appellant said he reported the overweight ash to his supervisor prior to the incident but the supervisor directed him to proceed to the landfill anyway. Appellant said he had reported similar issues prior to the second incident. When Appellant arrived at the landfill and attempted to dump the load, the truck tipped over. When questioned by the hearing officer, Appellant admitted he knew the contents were sticky.

On appeal, Appellant maintains he rebutted Employer's testimony.<sup>2</sup> He also argues his supervisor made misrepresentations about whether Appellant had reported the truck being overweight and that there were witnesses who could have testified about the events leading to the vehicle overturning. By letter mailed on October 12, 2020, Appellant was notified of the hearing date and advised he could present witnesses on his behalf. Information about how to subpoena witnesses was also included in the notice yet Appellant subpoenaed no witnesses. A layperson is held to the same standard as an attorney. *See Goodson v. Am. Bankers Ins. Co. of Fla.*, 295 S.C. 400, 403, 368 S.E.2d 687, 689 (Ct. App. 1988) ("Lack of familiarity with legal proceedings is unacceptable and the court will not hold a layman to any lesser standard than is applied to an attorney.").

While the Court is sympathetic to Appellant's situation, and while this determination in no way expresses how this Court might have found were it the trier of fact in the matter, the inescapable conclusion is that the Panel's decision is supported by substantial evidence in the record. Though the record contains evidence that could have permitted the Department to find for Appellant,<sup>3</sup> this does not mean that the Department's contrary findings are not supported by substantial evidence under this Court's limited standard of review. Consequently, Appellant has failed to meet his burden of establishing error in the Panel's decision.


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<sup>2</sup> Appellant said after the incident, Employer started handling these materials differently by putting the material on a belt trailer.

<sup>3</sup> *Waters, supra*. (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.).

**ORDER**

Based on the foregoing, **IT IS HEREBY ORDERED** that the decision of the South Carolina Department of Employment and Workforce's Appellate Panel is **AFFIRMED**.  
**AND IT IS SO ORDERED.**

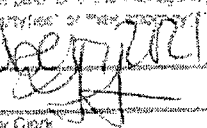
  
**SHIRLEY C. ROBINSON**  
Administrative Law Judge

October 5, 2021  
Columbia, South Carolina

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I have served this order in the above entitled case on the parties to this case by certifying by e-mail to the United States mail, postage paid, or by the electronic Mail Service provided to the parties of this court.

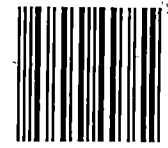
This 5 day of October, 2021

By:   
Judicial Law Clerk

McKinley Wright Jr  
918 S Midway Hwy  
Johnsonville, S.C. 29555



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South Carolina Court of Appeals

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