

Courts wrongly reweighed evidence to award unemployment benefits

Appellate and trial judges used improper analysis

By: Traci R. Gentilozzi in News Stories February 11, 2015

The Wayne County Circuit Court and the Michigan Court of Appeals used an incorrect legal standard to overturn a fired worker's denial of unemployment benefits, the Michigan Supreme Court has decided.

Both courts improperly reweighed the evidence and substituted their own assessment of the severity of the worker's conduct, the justices unanimously ruled in *Hodge v. U.S. Security Associates, Inc.* (MiLW No. 06-87769, 9 pages).

Carnice Hodge worked for U.S. Security Associates, Inc. as a security guard at Detroit Metropolitan Wayne County Airport. She was fired for violating USSA's computer use policy by retrieving departure information to help passengers.

The Michigan Unemployment Insurance Agency denied Hodge's claim for benefits. An administrative law judge reviewed the evidence and affirmed the denial. The Michigan Compensation Appellate Commission then affirmed the ALJ's decision.

But the Wayne Circuit Court reversed. The court said that while Hodge violated the computer use policy, the conduct was not severe enough to deny her unemployment benefits.

The Court of Appeals affirmed in a published opinion (MiLW No. 07-85834, 10 pages). The panel said Hodge was entitled to benefits because her behavior was a good-faith error in judgment and not misconduct under the Michigan Employment Security Act, MCL 421.1 et seq.

The Supreme Court reversed and reinstated the denial of benefits.

Both lower courts erred by re-evaluating the evidence to reach a different conclusion, and this violated the Michigan Constitution and MCL 421.38, the justices said.

Courts not a 'super personnel department'

The Supreme Court's decision was "spot on," said Royal Oak attorney Brian A. Kreucher, who represents the employer.

"The ALJ heard the testimony and decided, correctly so, that the claimant had engaged in work related 'misconduct,' which disqualified her for unemployment benefits," he noted.

Kreucher, who is with Howard & Howard Attorneys PLLC, said the high court properly held that both lower courts improperly engaged in an effort to re-evaluate the ALJ's findings.

"Here, the employer had a legitimate policy against the conduct, the claimant knew the policy and consequences for violating it, and admitted to the violation," he said. "As the Supreme Court correctly pointed out, the claimant's reason for violating the policy was irrelevant."

According to Kreucher, the significance of the decision for employers is two-fold.

"The lower courts improperly discounted the employer's stated policy and erred in their attempt to sit as a 'super personnel department' by second-guessing the employer's legitimate business decision," he said. "This opinion should give employers some level of comfort that they can set the standard of behavior they expect from their employees and not have to worry about being second-guessed."

The ruling also makes it clear that high deference will be given to an ALJ's decision in these kinds of cases, which means that employers "need to put their best foot forward at the unemployment hearing in terms of proving their case," Kreucher said.

Ann Arbor attorney Steven M. Gray, who represents Hodge, and Assistant Attorney General Shannon Wood

Husband, who represents the MCAC, did not respond to a request for comment.

Findings were 'discounted'

The Supreme Court emphasized that a trial court must affirm a decision of an ALJ and the MCAC if it conforms to the law. And a reviewing court cannot substitute its own judgment for a decision that is supported by substantial evidence, the high court said.

When the Court of Appeals examined the trial court's decision, it had to determine whether the correct legal principles were applied and whether the substantial evidence test was misapplied to the factual findings, the Supreme Court noted.

Here, the trial court said that Hodge had to make a decision between two conflicting policies: to not use the computer system or to assist passengers by retrieving departure information.

However, the record did not include any evidence of an employer policy to help passengers by retrieving departure information for them, the Supreme Court said.

"Even if such a policy can be implied from the record, the ALJ determined, in a factual finding, that the most weight should be given to the expressly stated policy against access of the airport's computer system," the justices wrote.

"Thus, the circuit court erred when it discounted the stated policy of Hodge's employer and, instead, credited Hodge with complying with a nonexistent policy of assisting passengers by retrieving departure information."

By affirming the trial court's decision, the Court of Appeals wrongly held that Hodge's act of helping a traveler benefitted her employer, the Supreme Court said.

"The panel reached this conclusion despite the ALJ's contrary finding that Hodge's violation was so severe that it went against USSA's interest," the high court wrote. "Instead of determining whether factual assessments made by the agency were supported by substantial evidence, both the lower courts engaged in an unbridled effort to reevaluate the ALJ's factual findings."

According to the justices, the ALJ was the only one who actually heard testimony, observed the witnesses, reviewed the evidence and made findings of fact based on the credibility of witnesses and weight of the evidence.

"The ALJ ultimately determined that Hodge's violation of the computer policy was a deliberate disregard of USSA's interest and that Hodge was discharged for reasons that would constitute behavior beneath the standard expected of employees," the Supreme Court said.

The trial court and the Court of Appeals should have given deference to the ALJ and the MCAC by reviewing their decisions only to ensure conformity with the law and the existence of competent, material and substantial evidence, the high court said.

"In sum, the lower courts improperly discounted the ALJ's findings to apply their own factual assessments, in violation of Const 1963, art 6, § 28 and MCL 421.38(1)," the Supreme Court concluded.

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