

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

AMBER GORDINEER,
Appellant,
vs.
EMPLOYMENT SECURITY DIVISION,
STATE OF NEVADA; KRISTINE
NELSON, IN HER CAPACITY AS
ADMINISTRATOR OF THE
EMPLOYMENT SECURITY DIVISION;
J. THOMAS SUSICH, IN HIS
CAPACITY AS CHAIRPERSON OF THE
EMPLOYMENT SECURITY DIVISION
BOARD OF REVIEW; AND KNOAH
SOLUTIONS, INC., AS EMPLOYER,
Respondents.

No. 89466-COA

FILED

MAR 05 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER OF AFFIRMANCE

Amber Gordineer appeals from a district court order denying a petition for judicial review in an unemployment insurance benefits matter. Eighth Judicial District Court, Clark County; Maria A. Gall, Judge.

Gordineer was employed full-time as a call center representative for respondent Knoah Solutions, Inc., beginning in June 2019. In August 2019, Gordineer gave Knoah two weeks' notice of her intent to terminate her employment; however, before the two-week period elapsed, she signed a resignation form without stating her reason for doing so, thereby terminating her employment with Knoah. At that point, Gordineer, who had also been performing services for Lyft, Inc., on a part-time basis, began to do so full-time until the March 2020 lockdown precipitated by the COVID-19 pandemic. Gordineer then applied for unemployment insurance benefits.

Although respondent the Employment Security Division of the Nevada Department of Employment, Training, and Rehabilitation (ESD) initially determined that Gordineer was eligible to receive unemployment insurance benefits and paid her the same, it later issued a disqualification notice, indicating that she was ineligible because she quit her employment with Knoah and failed to respond to ESD's requests for information concerning her reasons for doing so. ESD also issued a disqualification notice, which stated that Gordineer had been overpaid \$12,760 in unemployment insurance benefits, which she was required to repay. Gordineer then appealed these decisions to an appeals referee.

During the resulting hearing, the appeals referee questioned Gordineer concerning her reason for terminating her employment with Knoah to determine whether there was good cause. Gordineer testified that her team lead called her "stupid" in front of her coworkers, causing her tension and discomfort. Gordineer then reported the issue to Knoah's human resources (HR) department, which informed her team lead of the complaint, prompting the team lead to confront Gordineer. As a result, Gordineer testified that she gave two weeks' notice but ultimately signed the resignation form before the two weeks elapsed because she had a panic attack while at work.

The appeals referee also questioned Gordineer concerning her financial circumstances to determine whether requiring Gordineer to repay the unemployment insurance benefits that she received would be against equity and good conscience. Gordineer testified that she and her husband were both employed and that their combined monthly income was \$4,000. Gordineer further testified to approximately \$3,500 in monthly expenses for the couple and that it was difficult for the couple to stay afloat financially.

Following the hearing, the appeals referee entered an order affirming ESD's disqualification and overpayment determinations. For support, the appeals referee found that Gordineer's testimony concerning her work environment and efforts to resolve her concerns through Knoah's HR department did not establish good cause for terminating her employment with Knoah. Further, the appeals referee found that, although Gordineer testified that she was employed by Lyft when she terminated her employment with Knoah, her testimony did not establish good cause since her position with Lyft was "analogous to self-employment" and predated her employment with Knoah. Lastly, the appeals referee found that there was no basis in equity and good conscience to waive the overpayment since Gordineer and her husband were both employed, there was no evidence to show that Gordineer could not afford to make monthly payments, and she could negotiate a repayment plan with ESD.

Gordineer appealed the appeals referee's decision to ESD's board of review. However, the board of review declined further review, thereby adopting the appeals referee's decision.

Gordineer then filed a petition for judicial review against ESD; its administrator, respondent Kristine Nelson; and the chairperson of the board of review, respondent J. Thomas Susich (collectively referred to as respondents).¹ In her opening brief, Gordineer argued that her testimony established good cause to terminate her employment with Knoah and that requiring her to repay the overpayment would be against equity and good

¹Gordineer also named Knoah as a respondent in her petition. However, Knoah has not participated in any of the proceedings in this case and is therefore only discussed to the extent relevant to the issues on appeal.

conscience. Respondents, on the other hand, argued in their answering brief that Gordineer's testimony did not establish good cause for terminating her employment with Knoah, but they did not address her argument that she should not be required to repay the overpayment.

Following a hearing, the district court entered an order denying Gordineer's petition for judicial review, finding that the appeals referee's affirmance of ESD's disqualification and overpayment determinations was supported by substantial evidence. In doing so, the district court explained that rather than treating respondents' failure to address the overpayment issue in their answering brief as an admission that Gordineer's petition was meritorious on that point and a consent to granting the petition in part, it elected to review the issue on the merits since it was acting as a reviewing court and required to assess whether Gordineer met her burden of establishing that relief was warranted. This appeal followed.

The appellate court's role in reviewing an administrative agency's decision is identical to that of the district court. *Elizondo v. Hood Mach., Inc.*, 129 Nev. 780, 784, 312 P.3d 479, 482 (2013). The appellate court, therefore, gives no deference to the district court's decision. *Id.* Like the district court, this court reviews the evidence presented to the administrative agency in order to determine whether the agency's decision was arbitrary or capricious and thus an abuse of the agency's discretion. *Langman v. Nev. Adm'rs, Inc.*, 114 Nev. 203, 206-07, 955 P.2d 188, 190 (1998). This court reviews the factual findings of an administrative agency for clear error or an abuse of discretion and will not disturb those findings unless they are unsupported by substantial evidence. *Elizondo*, 129 Nev. at 784, 312 P.3d at 482. Substantial evidence is that which a reasonable person could find adequate to support the agency's decision. *Id.* Although

this court normally defers to an agency's conclusions of law that are closely related to the facts, *State v. Talalovich*, 129 Nev. 588, 590, 309 P.3d 43, 44 (2013), we review purely legal issues de novo, *Sierra Pac. Power Co. v. State, Dep't of Tax'n*, 130 Nev. 940, 944, 338 P.3d 1244, 1247 (2014).

On appeal, Gordineer maintains she presented sufficient evidence to establish that she terminated her employment with Knoah for good cause or, in the alternative, that requiring her to repay the overpayment would be against equity and good conscience.² Pursuant to NRS 612.380(1)(a), "a person is ineligible for [unemployment insurance] benefits for the week in which the person has voluntarily left his or her last or next to last employment . . . [w]ithout good cause . . . and until the person earns remuneration in covered employment equal to or exceeding his or her weekly benefits amount in each of 10 weeks." When a person is overpaid unemployment insurance benefits, he or she is liable for the amount of the overpayment unless repayment "would be against equity and conscience." NRS 612.365(1)(b).

Here, as detailed above, Gordineer testified concerning her work environment at Knoah, her effort to address the situation through

²To the extent Gordineer contends that the district court should have construed respondents' failure to address her challenge to the appeals referee's overpayment determination in their answering brief as a forfeiture of the issue, relief is unwarranted because the district court had discretion to consider the challenge on the merits notwithstanding respondents' failure to oppose it. See EDCR 2.20(e) ("Failure of the opposing party to serve and file written opposition *may be construed* as an admission that the motion and/or joinder is meritorious and a consent to granting the same." (emphasis added)); *Las Vegas Fetish & Fantasy Ball, Inc. v. Ahern Rentals, Inc.*, 124 Nev. 272, 278 & n.15, 182 P.3d 764, 768 & n.15 (2008) (reviewing a district court's decision to grant a motion pursuant to EDCR 2.20(b) (now EDCR 2.20(e)) for an abuse of discretion).

Knoah's HR department, her decision to terminate her employment with Knoah when the HR department did not address the situation to her satisfaction, and her household's financial circumstances. Based on the testimony provided, a reasonable person could have concluded that Gordineer did not have good cause to terminate her employment with Knoah and that requiring her to repay the overpayment would not be against equity and good conscience. Consequently, the appeals referee's findings to that effect were supported by substantial evidence.³ See *Elizondo*, 129 Nev. at 784, 312 P.3d at 482. And because this court does not reweigh the evidence or witness credibility, see *Quintero v. McDonald*, 116 Nev. 1181, 1183, 14 P.3d 522, 523 (2000) (refusing to reweigh the evidence on appeal); see also *Ellis v. Carucci*, 123 Nev. 145, 152, 161 P.3d 239, 244 (2007) (refusing to reweigh credibility determinations on appeal), we conclude that the appeals referee did not abuse her discretion by affirming ESD's disqualification and overpayment determinations on these grounds.⁴ See *Langman*, 114 Nev. at 206-07, 955 P.2d at 190.

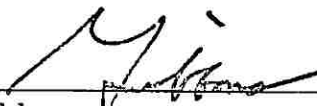
³Insofar as Gordineer posits that the appeals referee misapplied NRS 612.365(1)(b)'s equity-and-good-conscience standard for evaluating whether to waive the overpayment by looking to whether Gordineer and her husband were employed, the amount they earned, and their ability to negotiate a repayment plan, she fails to cite to any relevant legal authority to support that proposition, and we therefore decline to consider the issue. See *Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (declining to consider issues that are not supported by citation to relevant legal authority).

⁴While Gordineer also contends she establish good cause to terminate her employment with Knoah by showing that she secured full-time employment with Lyft after doing so, see NRS 612.380(1)(b), the record does not support her position. Indeed, Gordineer did not testify that she terminated her employment with Knoah to seek or secure employment with

Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Maria A. Gall, District Judge
Kristine M. Kuzemka, Settlement Judge
Nevada Legal Services/Las Vegas
State of Nevada/DETR - Carson City
Knoah Solutions, Inc.
Eighth District Court Clerk

Lyft, but instead, testified that her actions were based on the work environment at Knoah. Consequently, the appeals referee could properly find that Gordineer was disqualified from receiving unemployment insurance benefits pursuant to NRS 612.380(1)(a) as discussed above. And because Gordineer does not otherwise argue that her work for Lyft constituted covered employment for purposes of NRS Chapter 612, such that she requalified for unemployment insurance benefits under NRS 612.380(1)(a) after receiving remuneration from Lyft equal to or exceeding her weekly benefits amount in each of 10 weeks, relief is unwarranted in this respect.