

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

HAFIDH KARIM A/K/A HAFIDH
SALINAS,
Appellant,
vs.
EMPLOYMENT SECURITY DIVISION,
STATE OF NEVADA AND KRISTINE
NELSON, IN HER CAPACITY AS
ADMINISTRATOR OF THE
EMPLOYMENT SECURITY DIVISION,
AND J. THOMAS SUSICH, IN HIS
CAPACITY AS CHAIRPERSON OF THE
EMPLOYMENT SECURITY DIVISION
BOARD OF REVIEW; AND UNITED
STATES POSTAL SERVICE AS THE
EMPLOYER,
Respondents.

No. 90407-COA

FILED

MAY 13 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *Melissa J. Adles*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Hafidh Karim appeals from a district court order denying his petition for judicial review in an unemployment benefits matter. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

In 2022, Karim applied to receive unemployment insurance benefits. In February 2023, respondent, the Employment Security Division (ESD), issued Karim a disqualification letter and notice of overpayment based on a finding that he was discharged from his employment with the United States Postal Service (USPS) due to evidence that Karim committed theft. Karim timely appealed the decision.

In May 2024, Karim appeared at a hearing before an appeals referee. During the hearing, Karim stated he had reviewed the appeal file containing the exhibits before the appeals referee, and the appeals referee went through the exhibits with the parties. Karim and R. Jones, a USPS representative, testified during the hearing and Karim was given the opportunity to present evidence and question Ms. Jones.

Ms. Jones testified that Karim worked as a city letter carrier and had been terminated from his employment due to misappropriation of mail. Ms. Jones further testified that following customer reports about missing mail, the Office of the Inspector General (OIG) conducted an investigation wherein surveillance devices were placed. Ms. Jones explained that Karim had been observed rifling through parcels, opening parcels, and placing items from the opened parcels into his personal backpack while in the collection vehicle. She further explained that this conduct violated the USPS policies and regulations, and that these policy requirements were generally provided to each postal carrier during orientation and the training academy and were likewise posted broadly in the postal facilities. Ms. Jones testified that Karim was interviewed by the OIG and confirmed he was aware of his duties and USPS policies. Ms. Jones explained that during the interview, Karim denied opening mail while on duty but chose to end the interview when he was shown video of him rifling through parcels, opening parcels, and placing items in his personal backpack. Karim was given the opportunity to ask Ms. Jones questions following her testimony but did not ask any questions.

Karim testified that he was aware of the USPS' policies regarding the handling of mail but denied stealing mail. Karim explained he was only sorting mail and when he was asked whether he had opened mail, he answered, "No. That was an accident. I never did that." Karim further testified that interviewers tried to get him to admit fault during the interview, but he did not. He explained that he attempted to obtain the surveillance video footage of the alleged incidents leading to his termination but was unable to do so because the evidence had been destroyed. He explained that he had been arrested for the incidents, but the U.S. Attorney's Office declined to prosecute.

In its written order, the appeals referee affirmed the ESD's disqualification of benefits and overpayment decision. With regard to Karim, the appeals referee found that he stated his job requires him to sort mail in his truck and that his employer attempted to try to get him to admit wrongdoing, but he did not. The appeals referee further found that Karim claimed that he was never shown a video of his alleged wrongdoing, was never charged with a crime, and was falsely accused. Regarding Ms. Jones, the appeals referee found that she stated that Karim was surveilled by the OIG and was observed opening parcels in his collection vehicle. The appeals referee further found that Karim admitted to opening a parcel that did not belong to him, was advised of his responsibility to uphold the policies and regulations of the USPS, and after investigation, was found to have engaged in the misappropriation of mail. Ultimately, the appeals referee found, based on the evidence presented by the USPS, including dates and times related to the incident, misconduct had been established.

Karim subsequently appealed to the Board of Review, which declined further review and adopted the decision of the appeals referee. Karim thereafter filed a timely petition for judicial review. Following briefing and a hearing in which the parties presented argument, the district court denied Karim's petition. This appeal followed.

On appeal, Karim challenges the decisions of the appeals referee and the Board. "When reviewing an administrative unemployment compensation decision, this court, like the district court, examines the evidence in the administrative record to ascertain whether the Board acted arbitrarily or capriciously, thereby abusing its discretion." *Clark Cnty. Sch. Dist. v. Bundley*, 122 Nev. 1440, 1444, 148 P.3d 750, 754 (2006); *see also* NRS 233B.135(3) (setting forth the grounds on which an agency decision may be set aside on appeal). This court will not disturb those findings unless they are not supported by substantial evidence. *Elizondo v. Hood Mach., Inc.*, 129 Nev. 780, 784, 312 P.3d 479, 482 (2013). Substantial evidence is that which a reasonable person could find adequate to support the agency's decision. *Id.* "[F]act-based legal conclusions with regard to whether a person is entitled to unemployment compensation are entitled to deference." *Bundley*, 122 Nev. at 1445, 148 P.3d at 754.

Additionally, this court "will not substitute [our] judgment as to the weight of the evidence for that of the administrative agency." *Langman v. Nev. Adm'rs, Inc.*, 114 Nev. 203, 210, 955 P.2d 188, 192 (1998); *see also* *Consolo v. Fed. Mar. Comm'n*, 383 U.S. 607, 620 (1966) ("[T]he possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's findings from being supported by

substantial evidence.”). In this case, we examine the appeals referee’s decision for an abuse of discretion because the Board of Review declined further review of the appeals referee’s decision and thereby adopted his factual findings and reasoning. *See Nev. Emp. Sec. Dep’t, v. Holmes*, 112 Nev. 275, 279-80, 914 P.2d 611, 613-14 (1996).

Karim argues the appeals referee’s decision is arbitrary and capricious because there existed insufficient evidence that he committed misconduct. Karim contends that he testified under oath that he never stole packages and that the USPS failed to produce video of him opening packages. A person is ineligible for unemployment benefits if he was discharged from employment for misconduct connected with his work. NRS 612.385.

Disqualifying misconduct occurs when an employee deliberately and unjustifiably violates or disregards h[is] employer’s reasonable policy or standard, or otherwise acts in such a careless or negligent manner as to show a substantial disregard of the employer’s interests or the employee’s duties and obligations to [his] employer. As we have previously suggested, because disqualifying misconduct must involve an element of wrongfulness, an employee’s termination, even if based on misconduct, does not necessarily require disqualification under the unemployment compensation law.

Bundley, 122 Nev. at 1445-46, 148 P.3d at 754-55 (internal footnotes and quotations omitted).

Here, Karim’s employment was terminated because he was found to have opened and misappropriated packages in contravention of the

USPS policies or regulations. The appeals referee determined that the USPS presented credible evidence in the form of Ms. Jones' testimony and documents related to the OIG investigation that Karim had opened and misappropriated packages that did not belong to him. The appeals referee found that Karim was surveilled and interviewed by the OIG, which ultimately found based on its investigation that Karim engaged in the misappropriation of mail. We conclude substantial evidence supports these findings.

While Karim and Ms. Jones' testimony conflicted regarding the incidents and what the evidence showed, the appeals referee implicitly made credibility determinations regarding this testimony and found Ms. Jones' testimony credible and Karim's testimony not credible. This court will not reweigh evidence or reevaluate credibility determinations. See *Grosjean v. Imperial Palace, Inc.*, 125 Nev. 349, 366, 212 P.3d 1068, 1080 (2009) (“[C]redibility determinations and the weighing of evidence are left to the trier of fact.”); see also *Langman*, 114 Nev. at 210, 955 P.2d at 192; *Consolo*, 383 U.S. at 620. Accordingly, the record demonstrates the appeals referee did not act arbitrarily or capriciously in determining that Karim committed misconduct.¹ See *Bundley*, 122 Nev. at 1444, 148 P.3d at 754. And we discern no abuse of discretion in the Board's decision to decline to

¹In his reply brief, Karim argues the appeals referee improperly relied on Ms. Jones' testimony that included hearsay. This argument was raised for the first time in Karim's reply brief and we need not consider it. See *Khoury v. Seastrand*, 132 Nev. 520, 530 n.2, 377 P.3d 81, 88 n.2 (2016) (citing NRAP 28(c) and concluding that an issue raised for the first time in an appellant's reply brief was forfeited).

conduct further review and in adopting the appeals referee's decision. See NRS 612.515(1) (requiring appeals to the Board as a matter of right if the appeals referee reversed or modified the administrator's decision but in all other cases further review is within the Board's discretion); *see also* NRS 612.515(3) (providing that the Board may affirm, modify, or reverse the appeals referee "solely on the basis of evidence previously submitted, or upon the basis of such additional evidence as it may direct to be taken").

Karim also argues he was denied due process because "fair procedures" were not followed. Karim does not specifically identify on appeal which procedures were not followed but appears to contend that his due process rights were violated because the USPS never presented video of his alleged misconduct even after he requested it and, in the absence of such evidence, his sworn testimony was sufficient to demonstrate that he did not steal packages.

Due process protections apply to unemployment benefit hearings. *Whitney v. State, Emp. Sec. Dep't*, 105 Nev. 810, 813, 783 P.2d 459, 460 (1989). However, procedural due process is satisfied when parties receive notice and an opportunity to be heard. *Wilson v. Pahrump Fair Water, LLC*, 137 Nev. 10, 17, 481 P.3d 853, 859 (2021); *see also Mesi v. Mesi*, 136 Nev. 748, 750, 478 P.3d 366, 369 (2020) (providing that "[d]ue process is satisfied where interested parties are given an opportunity to be heard at a meaningful time and in a meaningful manner" which may "take[] the form of a live hearing" (internal quotation marks omitted)); NRS 233B.121 (requiring reasonable notice in contested cases, including a "short and plain statement of the matters asserted" and the opportunity "to respond and

present evidence and argument on all issues involved”). The Nevada Supreme Court has held that the “due process requirements of notice are satisfied where the parties are sufficiently apprised of the nature of the proceedings so that there is no unfair surprise.” *Nev. State Apprenticeship Council v. Joint Apprenticeship & Training Comm. for Elec. Indus.*, 94 Nev. 763, 765, 587 P.2d 1315, 1317 (1978).

Here, the record demonstrates that Karim was provided with notice of the relevant hearing and he had the opportunity to be heard and to present evidence at the hearing before the appeals referee. Karim’s right to due process was thus satisfied. While Karim challenges the appeals referee’s decision based on the evidence presented and the lack of video evidence, as is discussed above, substantial evidence supports the appeals referee’s decision. Accordingly, we affirm the district court’s denial of Karim’s petition for judicial review. For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Susan Johnson, District Judge
Hafidh Karim
State of Nevada/DETR - Carson City
United States Postal Service
Eighth District Court Clerk