

2026 IL App (1st) 251726-U

No. 1-25-1726

Order filed October 15, 2026

Fourth Division

NOTICE: This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

DONIEL HAMPTON,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County.
	)	
v.	)	
	)	
THE DEPARTMENT OF EMPLOYMENT SECURITY;	)	
DIRECTOR OF THE DEPARTMENT OF	)	
EMPLOYMENT SECURITY; BOARD OF REVIEW;	)	No. 25 L 50258
and RED ROBIN GOURMET BURGERS,	)	
	)	
Defendants	)	
	)	
(The Department of Employment Security; Board of	)	
Review; and Red Robin Gourmet Burgers, Defendants-	)	Honorable
Appellants).	)	John A. Simon,
	)	Judge, presiding.

JUSTICE OCASIO delivered the judgment of the court.
Justices Mitchell and Navarro concurred in the judgment.

ORDER

¶ 1 *Held:* We affirm the Board’s decision that plaintiff was ineligible for unemployment insurance benefits, where the evidence supported a finding that plaintiff was discharged from his employment for misconduct.

¶ 2 Plaintiff Doniel Hampton appeals *pro se* the circuit court’s order affirming the decision of defendant, the Board of Review (Board) of the Department of Employment Security (Department), that plaintiff was discharged for misconduct and thus ineligible for unemployment benefits under the Unemployment Insurance Act (Act) (820 ILCS 405/100 *et seq.* (West 2024)). He contends that the circuit court’s order was based on false information that his former employer, Red Robin International, Inc. (Red Robin), provided to the Board.¹ We affirm.

¶ 3 On October 19, 2016, Hampton began employment as a line cook at a Red Robin restaurant located in Orland Park. He was discharged on August 24, 2024. Hampton filed with the Department a petition seeking unemployment benefits under the Act.

¶ 4 On September 25, 2024, the Department entered a determination finding Hampton was “not ineligible” for unemployment benefits from September 8, 2024, as Hampton had not been discharged for misconduct connected with his work. The Department reasoned that Hampton was not discharged due to “deliberate or willful” action, but rather because “his work performance did not meet [Red Robin’s] expectations.” Red Robin appealed the determination, and a hearing before a Department referee (Referee) was set for November 18, 2024.

¶ 5 At the hearing, Red Robin kitchen manager Aaron Struble testified that, on August 20, 2024, he observed Hampton rinsing off food prep equipment, namely, cutting boards, knives, a

¹ In his complaint for administrative review, plaintiff named the director of the Department as a defendant. His notice of appeal, however, does not name the director as an appellee. Further, while plaintiff named defendant as “Red Robin Gourmet Burgers” in the administrative review proceedings, the record shows that Red Robin’s company name is Red Robin International, Inc.

slicer, and a dicer. According to Struble, Hampton was supposed to wash and sanitize said equipment. Hampton also failed to wipe down the prep counters and sink, leaving food particles on them. Hampton received a written warning, which is part of the record on appeal. The warning states the incident was “documented as unacceptable behavior,” violated Red Robin’s “health and safety policy,” and was the “[s]econd offense.” The warning also reflects that the resulting action was termination, effective immediately.

¶ 6 Struble further testified that, on August 24, 2024, he spoke to Hampton about the August 20 incident. Struble told Hampton that he “rinsed off slicers, dicers, cutting board[s] and knives and then left the *** prep area a mess.” Hampton was “adamant” that he “didn’t do it” and was “not responsible.” He was discharged on that date.

¶ 7 Struble testified that Hampton had violated two items in Red Robin’s professional conduct policy. Those items, as seen in the policy included in the record on appeal, provide that employment may be terminated based on (1) “[i]nsubordination or refusing to obey lawful instructions properly issued by your Manager pertaining to your work” and (2) “[n]egligence or any careless action which endangers the life or safety of another person.”

¶ 8 Struble further testified that Hampton had been observed engaging in similar behavior previously. On May 7, 2024, Hampton had received another written warning, which Struble read from at the hearing and is part of the record on appeal. The May 2024 warning states that it is the “Final Written Warning” and concerns “Food Safety/Health & Safety.” More specifically, it indicates that, on May 7, 2024, Hampton was observed rinsing off an immersion blender head instead of taking it to the dish station. “Immediately” after, Hampton grabbed two pans from the FOG tank, failed to clean them properly, and made ranch and onion sauce in the pans. The sauce

was subsequently thrown out due to “food safety/health and safety concerns.” The May 2024 warning states, “On multiple occasions, you have been coached on following proper procedure when handling dirty dishes,” and “[t]wice you have been caught rinsing dirty dishes off to put them back down on the shelf.” It further states that it was “annotated twice” that Hampton had “rinsed off” the immersion blender and was “coached each time this has occurred.” The May 2024 warning concludes: “These incidents are a violation of health and safety policies and will not be tolerated.”

¶ 9 Hampton testified that on August 20, 2024, he used the cutting board, knife, slicer, and dicer and left them in the dishwashing machine. Hampton stated, “That’s all I have to do, just leave it there.” The next time he saw the equipment was when another line cook brought it from the dishwasher back under the counter. Hampton did not use the equipment again. When asked what else he did after prepping food on the counter, Hampton testified that he “rinse[d] and sanitize[d]” the prep counter and sink, “clean[ed] off” the drain, and “t[ook] away” the sanitation bucket.

¶ 10 When asked if he was trained on cleaning the food prep counter and equipment, Hampton testified, “I’ve been doing this for years, so I definitely know what I’m doing.” He stated that, in the eight years he had worked at Red Robin, he had never been written up for a sanitation violation until the two he received in 2024, and he never “had a problem with sanitation as long as [he had] been in their employment.” On examination by Struble, Hampton stated Struble was “not necessarily” more focused on health and safety than his previous managers, as “some” managers were “very strict on their sanitation.”

¶ 11 The Referee asked Hampton if he had any further remarks. Hampton stated that, a “couple days” before “those infractions,” his “schedule was already made,” but “he” “took two hours off”

each of the days Hampton worked. Hampton stated that “he” knew the “infractions” would occur “before that even happened” and asked, “Why would you *** cut my hours before the infraction even happened?”

¶ 12 On November 19, 2024, the Referee entered a decision finding Hampton was disqualified from receiving unemployment benefits, as he was discharged for misconduct as provided in section 602(A) of the Act (820 ILCS 405/602(A) (West 2024)). The Referee found that Hampton’s conduct on August 20, 2024, was a “deliberate and willful violation” of Red Robin’s policy prohibiting “insubordination and careless action that endangers the safety of another person.” The Referee also found that Hampton lacked credibility.

¶ 13 On December 14, 2024, Hampton filed an appeal with the Board challenging the Referee’s decision.

¶ 14 On April 1, 2025, the Board entered a decision affirming the Referee’s decision. The Board found that the preponderance of the evidence established that Hampton deliberately and willfully violated Red Robin’s “reasonable and known sanitation and safety policies.” The Board found that Struble testified credibly that he saw Hampton not properly cleaning items and the prep counter. The Board further stated that, while Hampton denied that he violated Red Robin’s policies, the “credible evidence indicates that [his] conduct reflected a conscious choice to not do the things required of him by the employer’s rules and policies, particularly in light of a prior written warning on the same issue.” The Board also found that Hampton’s conduct “posed potential harm to the employer by [threatening] the health and safety of its customers.”

¶ 15 On May 5, 2025, Hampton filed a *pro se* complaint for administrative review with the circuit court of Cook County, naming as defendants the Department, the Department director, the

Board, and Red Robin. Following a hearing on September 3, 2025, in which Hampton and the State defendants' counsel were present, the circuit court affirmed the Board's decision.

¶ 16 Hampton timely appealed. Subsequently, we took the appeal on the record and his brief only. See *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976) (reviewing court may take case on appellant's brief only).

¶ 17 On appeal, Hampton argues that the trial court erred in denying his complaint for administrative review because the Board's decision was based on "false statements" by Red Robin. Namely, he claims that Red Robin "made false and made-up excuses" for terminating him and "set [him] up" with "false write-ups."

¶ 18 As an initial matter, Hampton's brief fails to comply with most of the requirements of Illinois Supreme Court Rule 341(h) (eff. Oct. 1, 2020). For instance, Hampton fails to include a table of contents and summary statement clearly setting forth the points argued and authorities cited. Ill. S. Ct. R. 341(h)(1) (eff. Oct. 1, 2020). In violation of Rule 341(h)(6), Hampton fails to set forth a statement of facts containing the facts "necessary to an understanding of the case." See Ill. S. Ct. R. 341(h)(6) (eff. Oct. 1, 2020). Hampton also fails to provide argument with "citation of the authorities and the pages of the record relied on." See Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020).

¶ 19 Supreme court rules are not mere suggestions. *SMS Financial CH, LLC v. Feurer*, 2025 IL App (1st) 250033, ¶ 40. *Pro se* litigants must comply with the same procedural rules required of attorneys. *Gillard v. Northwestern Memorial Hospital*, 2019 IL App (1st) 182348, ¶ 45. When a party fails to comply with Rule 341, this court may strike the brief or parts thereof or may disregard the noncompliant material. *Pasic v. Department of Financial & Professional Regulation*, 2022 IL

App (1st) 220076, ¶ 15. Nonetheless, the deficiencies of Hampton’s brief do not hinder our review. To the extent that Hampton makes assertions not supported by the record, they will be disregarded. *Id.*

¶ 20 In reviewing an appeal from a decision in which unemployment insurance benefits have been denied, we review the decision of the Board and not that of the circuit court. *Petrovic v. Department of Employment Security*, 2016 IL 118562, ¶ 22. Our review is limited to the record before the administrative agency. *Maskevich v. Illinois Department of Employment Security*, 2022 IL App (1st) 210779, ¶ 17.

¶ 21 The Act was enacted to “relieve the economic insecurity and hardship caused by involuntary loss of employment” and to “benefit persons who become unemployed through no fault of their own.” *Craig v. Department of Employment Security*, 2022 IL App (1st) 210475, ¶ 19. The Act is to be “liberally construed to protect individuals from severe economic insecurity resulting from involuntary unemployment.” (Internal quotation marks omitted.) *Matlock v. Illinois Department of Employment Security*, 2019 IL App (1st) 180645, ¶ 22.

¶ 22 Because the Act is aimed at alleviating the burdens of “involuntary” employment, certain unemployed individuals are specifically disqualified from obtaining benefits. *Petrovic*, 2016 IL 118562, ¶ 24. Relevant here, unemployed individuals are disqualified from obtaining benefits where they were discharged for “misconduct” connected with their work. 820 ILCS 405/602(A) (West 2024). Disqualification for misconduct is intended for individuals who “intentionally commit conduct which they know is likely to result in their termination.” *Petrovic*, 2016 IL 118562, ¶ 27. “Misconduct” includes the “[r]efusal to obey an employer’s reasonable and lawful instruction, unless the refusal is due to the lack of ability, skills, or training for the individual

required to obey the instruction or the instruction would result in an unsafe act.” 820 ILCS 405/602(A)(5) (West 2024). Under the Act, an employee was discharged for misconduct if, as relevant here: (1) the employer had a reasonable work rule; (2) the employee deliberately and willfully violated the rule; and (3) the violation either was repeated by the employee despite a prior warning or harmed the employer. *Cannici v. Department of Employment Security Board of Review*, 2021 IL App (1st) 181562, ¶ 41. The employer has the burden of proving that the employee was discharged for misconduct. *Soni v. Department of Employment Security*, 2024 IL App (1st) 220137, ¶ 69.

¶ 23 The standard of review here depends on whether the issue involved is a question of fact, law, or a mixed question of fact and law. *Leach v. Department of Employment Security*, 2020 IL App (1st) 190299, ¶ 22. Generally, the ultimate issue of whether an employee was discharged for misconduct presents a mixed question of fact and law, which we review under the clearly erroneous standard. *Cannici*, 2021 IL App (1st) 181562, ¶ 43. An agency’s decision is clearly erroneous “only if the court is left with a definite and firm conviction that a mistake has been made.” (Internal quotation marks omitted.) *Id.*

¶ 24 Here, we find the Board’s determination that Hampton deliberately and willfully violated a reasonable work rule made by Red Robin was not clearly erroneous. Red Robin’s professional conduct policy provides that employees may be disciplined, up to and including termination, for (1) refusal to obey lawful instructions issued by their manager pertaining to work, and (2) negligence or any careless action which endangers the life or safety of another person. There is no dispute that a policy requiring an employee to follow a manager’s lawful work instructions, and to not risk the life or safety of others, is a reasonable one. See *Pesoli v. Department of Employment*

Security, 2012 IL App (1st) 111835, ¶ 31 (“A reasonable rule concerns standards of behavior which an employer has a right to expect from an employee.” (Internal quotation marks omitted.)).

¶ 25 Further, Red Robin presented evidence and testimony that Hampton had a pattern of not properly cleaning food prep equipment at work and had previously received warnings for the behavior. On May 7, 2024, Hampton received a “Final Written Warning” concerning “Food Safety/Health & Safety,” after he failed to properly wash an immersion blender head and used pans that were not properly cleaned to make a sauce. The warning reflects that Hampton had been coached on following proper cleaning procedure on multiple occasions, but the behavior persisted. The warning stated that the incidents were “a violation of health and safety policies and will not be tolerated.” Then, on August 20, 2024, Hampton failed to properly wash and sanitize food prep equipment and also failed to wipe down the prep counters and sink. He was discharged for the August 20 incident. Given that Hampton had been repeatedly warned that he was not following Red Robin’s cleaning procedures, the evidence supported a finding that Hampton deliberately and willfully violated Red Robin’s policy on August 20, 2024, as he was made aware of the policy but nonetheless chose not to follow it. See *Cannici*, 2021 IL App (1st) 181562, ¶ 47 (“A violation of a work rule is considered deliberate and willful when the employee was aware of the rule but disregarded it.”). The evidence also supported a finding that respondent repeated the policy violation by the employee despite a prior warning. See *id.* (elements for showing an employee was discharged for misconduct). After reviewing the record, we cannot say, definitively and firmly, that the Board made a mistake in determining that Hampton was discharged for misconduct and thus was ineligible for unemployment benefits. We therefore conclude that the Board’s decision was not clearly erroneous. *Id.* ¶ 43.

¶ 26 Nonetheless, Hampton argues that Red Robin “set [him] up,” “made up” the reasons for which he was discharged, and falsified the written warnings documenting his policy violations. Hampton here raises pure questions of fact, as he essentially challenges the credibility of Red Robin’s witness and submitted evidence, and argues that he did not commit the acts for which he was discharged. *Cf. Soni*, 2024 IL App (1st) 220137, ¶ 66 (a mixed question of fact and law is raised where the historical facts are admitted or established, and the only question is whether the facts satisfy the statutory standard).

¶ 27 When reviewing a question of fact, we will reverse the Board’s factual findings only if they are against the manifest weight of the evidence. *Id.* A finding is against the manifest weight of the evidence only when the opposite conclusion is clearly evident. *Cannici*, 2021 IL App (1st) 181562, ¶ 42. The Board is the trier of fact, and its “purely factual findings are *prima facie* true and correct.” (Internal quotation marks omitted.) *Craig v. Department of Employment Security*, 2022 IL App (1st) 210475, ¶ 15. A court conducting administrative review will not reweigh the evidence or substitute its judgment for that of the Board. *Id.* “If there is any evidence in the record to support the Board’s decision, that decision is not contrary to the manifest weight of the evidence and must be sustained on review.” *Woods v. Illinois Department of Employment Security*, 2012 IL App (1st) 101639, ¶ 16.

¶ 28 Here, as we have found, Red Robin submitted evidence that Hampton willfully and deliberated violated a reasonable policy made by Red Robin, and that he had repeatedly violated the policy despite prior warnings. Thus, because there is evidence in the record supporting the Board’s decision, we cannot find the decision was against the manifest weight of the evidence. *Id.* Moreover, the Board expressly found that Hampton did not testify credibly and that Red Robin’s

submitted testimony and evidence was credible. It was the Board's role as trier of fact to weigh the evidence before it and assess the witnesses' credibility, and we must deem the Board's factual findings as *prima facie* true and correct. *Craig*, 2022 IL App (1st) 210475, ¶ 15. We therefore defer to the Board's factual finding that Hampton did commit the acts that led to his discharge by Red Robin. Because the Board's decision was not against the manifest weight of the evidence, we find no reason to disturb the circuit court's order affirming the Board's decision.

¶ 29 For the foregoing reasons, we affirm the judgment of the circuit court that affirmed the Board's decision to deny Hampton unemployment benefits.

¶ 30 Affirmed.