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NO. 74116-1

**COURT OF APPEALS, DIVISION 1
OF THE STATE OF WASHINGTON**

NADENE RAPADA,

Respondent,

v.

NOOKSACK INDIAN TRIBE,

and

STATE OF WASHINGTON, DEPT. OF EMPLOYMENT SECURITY,

Appellants.

BRIEF OF APPELLANT DEPT. OF EMPLOYMENT SECURITY

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I. INTRODUCTION

Nadene Rapada was discharged from her job as an accounting director by her employer, the Nooksack Indian Tribe, for violating its accounting policies. Rapada does not dispute that she was aware of the policy, that the policy was reasonable, or that her conduct was in violation of the policy. Accordingly, the Commissioner of the Employment Security Department correctly concluded Rapada committed work-related misconduct and was disqualified from receiving unemployment benefits. RCW 50.20.066; RCW 50.04.294(1)(a), (2)(f).

On judicial review of an agency's administrative decision, a court applies the substantial evidence standard to the facts found below and must accept the Commissioner's findings of fact if supported by substantial evidence. Here, the Whatcom County Superior Court failed to follow this standard by reweighing evidence and making new findings of facts, and it erred in reversing the Commissioner's decision. Because substantial evidence in the administrative record supports the Commissioner's factual findings, which Rapada does not dispute, and the decision was correct under the law, the Department asks this Court to reverse the superior court and affirm the Commissioner's decision denying Rapada unemployment benefits.

II. ASSIGNMENTS OF ERROR

The Department assigns no error to the final decision of the Department's Commissioner. However, because the Whatcom County Superior Court erred in reversing the Commissioner's decision, and the Department is now an appellant, the Department assigns error to the following aspects of the superior court's order:¹

1. The superior court erred in making additional findings of fact. CP 96-97.
2. The superior court erred in reweighing the evidence. CP 96-97.
3. The superior court erred in concluding that the Commissioner's decision was not supported when examined "in light of the record as a whole." CP 97.
4. The superior court erred in concluding that, "in light of the record as a whole," substantial evidence did not support the conclusion that Rapada was discharged for a willful or wanton disregard of the rights, title, and interests of the employer, pursuant to RCW 50.04.294(1)(a). CP 97.
5. The superior court erred in concluding that Rapada's actions were a good faith error in judgment pursuant to RCW 50.04.294(3)(c). CP 97.
6. The superior court erred in reversing the Commissioner's decision. CP 98.

III. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Whether substantial evidence in the record supports the Commissioner's findings that the Nooksack Indian Tribe

¹ This is a judicial review of a final agency decision under the Washington Administrative Procedure Act, chapter 34.05 RCW, where the Court of Appeals sits in the same position as the superior court and reviews the Commissioner's decision. *Tapper v. Emp't Sec. Dep't*, 122 Wn.2d 397, 402, 858 P.2d 494 (1993). Accordingly, the Respondent, Rapada, must assign error to the Commissioner's findings and conclusions she challenges. See RAP 10.3(h); RCW 50.32.120 (judicial review of the Commissioner's decision is governed by the Administrative Procedure Act).

had an accounting policy that required written signature approval by the Chief Financial Officer for the reimbursement of travel expenses. AR at 312 (Finding of Fact (FF) 3). Assignments of Error 1–3.

2. Whether substantial evidence supports the Commissioner’s finding that Rapada was aware of this policy but processed a check and cashed it without obtaining the requisite approval. AR at 312 (FF 3 and 5). Assignments of Error 2–4.
3. Whether the Commissioner correctly concluded that Rapada committed misconduct under the Employment Security Act when:
 - a. Rapada violated her employer’s reasonable rule requiring written signature approval for a travel reimbursement but processed a check and cashed it without proper signature approval; AR at 313.
or
 - b. Rapada acted in willful or wanton disregard of her employer’s rights, title, and interests. AR at 313.

Assignments of Error 4–6.

IV. STATEMENT OF THE CASE

Nadene Rapada worked full time as an accounting director for the Nooksack Indian Tribe from June 15, 1984, until December 27, 2013. Administrative Record (AR) at 312 (FF 2). The Nooksack Indian Tribe has a policy that requires employees to take certain steps to request and receive reimbursement for travel expenses. AR 133, AR 139-154, 312 (FF 3). The reimbursement must be approved by the Chief Financial Officer or his delegate. AR 133, AR 139-154, 312 (FF 3, 4). Specifically, the

reimbursement request must be approved before a check is issued, and the check is then reviewed and approved by the controller, chief financial officer (CFO), or accounting director. AR 133, AR 139-154. This policy is in the written Accounting Policies and Procedures Manual. AR 138-155. The CFO, Jeff Myer, testified that in 2013, the year Rapada was terminated, the accounting policies were being regularly reinforced at accounting staff meetings. AR 36-37. In particular, it was emphasized that the CFO's signature was required on reimbursement requests. AR 36. The CFO testified Rapada was present at the staff meetings where the policy was being reinforced, AR 36-37, and Rapada concedes she was aware of the policy. AR 99, 312 (FF 3).

On December 20, 2013, Rapada submitted a mileage report and request for mileage reimbursement to Elizabeth Ames, Controller for the Nooksack Indian Tribe. AR 29, 312 (FF 5). Both forms required approval before further processing. AR 33, 145-147, 312 (FF 5). Ames had been delegated the signing authority from the CFO because Meyer was on vacation at the time. AR 27, 312 (FF 4). Instead of contacting Ames to approve and process the request, whom Rapada knew was available by phone or e-mail, Rapada had a co-worker process the request and print a reimbursement check. AR 27, 34-35, 49-50, 61-62, 69-70, 312 (FF 5).

Rapada cashed the check within one hour of leaving work without obtaining the proper approval. AR 105, 312 (FF 5).

The Nooksack Indian Tribe discharged Rapada for processing a mileage reimbursement without proper approval in violation of its accounting policy. AR 81. Rapada applied for unemployment benefits, which the Department initially allowed. AR 80-81, 311 (FF 1). The Nooksack Indian Tribe appealed, and, after an administrative hearing, an administrative law judge (ALJ) determined Rapada was not discharged for misconduct and, therefore, not disqualified from receiving benefits. AR 291-93, 311-12 (FF 1).

The Nooksack Indian Tribe petitioned the Department's Commissioner for review of the ALJ's initial order. AR 301-308. The Commissioner set aside the initial order and made new findings of fact and conclusions of law. AR 311-13. The Commissioner determined that a preponderance of the evidence showed Rapada was discharged for violating a reasonable employer policy that was known to her, which amounts to disqualifying misconduct under RCW 50.20.066(1) and RCW 50.04.294(2)(f). AR 313. The Commissioner further concluded that Rapada's conduct amounted to a willful and wanton disregard of the rights, title and interests of her employer under RCW 50.04.294(1)(a). *Id.*

Rapada appealed to the Whatcom County Superior Court. Making new findings and reweighing the evidence, the superior court reversed the Commissioner's decision. CP 95-98. The Department and the Nooksack Indian Tribe now appeal to this Court.

V. STANDARD OF REVIEW

The appellate court's "limited review of an agency decision is governed by the Administrative Procedure Act (APA), chapter 34.05 RCW." *Campbell v. Emp't Sec. Dep't*, 180 Wn.2d 566, 571, 326 P.3d 713 (2014); RCW 50.32.120. Under the APA, the court gives "[g]reat deference" to the Commissioner's factual findings and substantial weight to the agency's interpretation of the law. *Daniels v. Dep't of Emp't Sec.*, 168 Wn. App. 721, 727, 281 P.3d 310 (2012) (quoting *Galvin v. Emp't Sec. Dep't*, 87 Wn. App. 634, 641, 942 P.2d 1040 (1997)).

This Court sits in the same position as the superior court and applies the APA standards directly to the administrative record. *Campbell*, 180 Wn.2d at 571. Thus, the decision on review is that of the Commissioner, not the ALJ or superior court, except to the extent that the Commissioner adopted the ALJ's factual findings.² *Id.*; *Tapper v. Emp't*

² As the reviewing officer under RCW 34.05.464(4), the Commissioner has the ability and right to modify or to replace an ALJ's findings, though the Commissioner must give "due regard" to the ALJ's opportunity to observe the witnesses. RCW 34.05.464(4); *Tapper*, 122 Wn.2d at 404-06; *Smith v. Emp't Sec. Dep't*, 155 Wn. App. 24, 35 n.2, 226 P.3d 263 (2010).

Sec. Dep't, 122 Wn.2d 397, 406, 858 P.2d 494 (1993); *Delagrave v. Emp't Sec. Dep't*, 127 Wn. App. 596, 604, 111 P.3d 879 (2005) (superior court's findings of fact and conclusions of law are superfluous to appellate court's review). Accordingly, because Rapada appealed the Commissioner's decision to superior court, it is her burden to demonstrate the invalidity of the decision to this Court. RCW 34.05.570(1)(a); RCW 50.32.150; *Campbell*, 180 Wn.2d at 571.

The Commissioner's findings of fact must be upheld if supported by substantial evidence in the agency record. RCW 34.05.558; RCW 34.05.570(3)(e); *William Dickson Co. v. Puget Sound Air Pollution Control Agency*, 81 Wn. App. 403, 411, 914 P.2d 750 (1996). Unchallenged factual findings are verities on appeal. *Tapper v. Emp't Sec. Dep't*, 122 Wn.2d 397, 407, 858 P.2d 494 (1993). Evidence is substantial if it is "sufficient to persuade a rational, fair-minded person of the truth of the finding." *In re Estate of Jones*, 152 Wn.2d 1, 8, 93 P.3d 147 (2004); *Campbell*, 180 Wn.2d at 571. Evidence may be substantial enough to support a factual finding even if the evidence is conflicting and could lead to other reasonable interpretations. *Fred Hutchinson Cancer Research Ctr. v. Holman*, 107 Wn.2d 693, 713, 732 P.2d 974 (1987). The reviewing court is to "view the evidence and the reasonable inferences therefrom in the light most favorable to the party who prevailed" at the administrative

proceeding below—here, the Department. *William Dickson Co.*, 81 Wn. App. at 411; *see also Tapper*, 122 Wn.2d at 403 (court gives deference to agency’s factual findings).

The process of reviewing for substantial evidence “necessarily entails acceptance of the fact-finder’s views regarding credibility of witnesses and the weight to be given reasonable but competing inferences.” *William Dickson Co.*, 81 Wn. App. at 411 (quoting *State ex rel. Lige & Wm. B. Dickson Co. v. County of Pierce*, 65 Wn. App. 614, 618, 829 P.2d 217 (1992)); *Smith v. Emp’t Sec. Dep’t*, 155 Wn. App. 24, 35-36, 226 P.3d 263 (2010). A court may not substitute its judgment of the facts for that of the agency. *Tapper*, 122 Wn.2d at 403.

The Court reviews questions of law de novo, under the error of law standard. RCW 34.05.570(3)(d); *Tapper*, 122 Wn.2d at 407. However, because the Department has expertise in interpreting and applying unemployment benefits law, the Court should accord substantial weight to the agency’s decision. *Markam Group, Inc. v. Dep’t of Emp’t Sec.*, 148 Wn. App. 555, 561, 200 P.2d 748 (2009); *William Dickson Co.*, 81 Wn. App. at 407.

Whether a claimant committed statutory misconduct is a mixed question of law and fact. *Griffith v. Dep’t of Emp’t Sec.*, 163 Wn. App. 1, 8, 259 P.3d 1111 (2011). To resolve a mixed question of law and fact, the

Court engages in a three-step analysis in which it: (1) determines whether the Commissioner's factual findings are supported by substantial evidence; (2) makes a *de novo* determination of the law; and (3) applies the law to the facts. *Tapper*, 122 Wn.2d at 403. As under any other circumstance, a court is not free to substitute its judgment for that of the agency as to the facts. *Id.* The process of applying the law to the facts is a question of law, subject to *de novo* review. *Id.*

VI. ARGUMENT

The Employment Security Act, title 50 RCW, was enacted to provide compensation to individuals who are “involuntarily” unemployed “through no fault of their own.” RCW 50.01.010; *Tapper*, 122 Wn.2d at 408. As such, a claimant is disqualified from receiving unemployment benefits if she has been discharged from her job for work-connected “misconduct.” RCW 50.20.066(1); RCW 50.04.294. The initial burden is on the employer to show by a preponderance of the evidence that the claimant was discharged for disqualifying misconduct. *Nelson v. Emp't Sec. Dep't*, 98 Wn.2d 370, 374-75, 655 P.2d 242 (1982).

Misconduct includes:

- (a) Willful or wanton disregard of the rights, title, and interests of the employer or a fellow employee;

- (b) Deliberate violations or disregard of standards of behavior which the employer has the right to expect of an employee;
- (c) Carelessness or negligence that causes or would likely cause serious bodily harm to the employer or a fellow employee; or
- (d) Carelessness or negligence of such degree or recurrence to show an intentional or substantial disregard of the employer's interest.

RCW 50.04.294(1). The statute also identifies certain conduct as *per se* misconduct “because the acts signify a willful or wanton disregard of the rights, title, and interests of the employer or a fellow employee.” RCW 50.04.294(2); *Daniels v. Dep’t of Emp’t Sec.*, 168 Wn. App. 721, 728, 281 P.3d 310 (2012) (“Certain types of conduct are misconduct *per se*.”). One such act of *per se* misconduct is “[v]iolation of a company rule if the rule is reasonable and if the claimant knew or should have known of the existence of the rule.” RCW 50.04.294(2)(f) (emphasis added).

In this case, substantial evidence supports the Commissioner’s findings that Rapada was aware of the Nooksack Indian Tribe’s accounting policy requiring prior, proper approval of mileage reimbursements and that Rapada violated this reasonable rule. The Commissioner correctly concluded that Rapada committed disqualifying misconduct under RCW 50.04.294(2)(f) (violation of a company rule if the rule is reasonable and if the claimant knew or should of known of its

existence) and (1)(a) (willful or wanton disregard of the rights, title, and interests of the employer). AR at 313 (Additional Conclusion of Law).

The Court should affirm the Commissioner's decision.

A. Substantial Evidence Supports the Commissioner's Factual Findings

Rapada did not challenge any of the Commissioner's factual findings in the superior court; this Court should consider these unchallenged factual findings as verities on appeal. *Tapper*, 122 Wn.2d at 407. Regardless, the Commissioner's factual findings are supported by substantial evidence.

First, substantial evidence supports the Commissioner's finding that the Nooksack Indian Tribe had a policy requiring written signature approval by the CFO for travel reimbursements and that Rapada was aware of this policy. AR 312 (FF 3). The Nooksack Indian Tribe Accounting Policies and Procedures manual was admitted as an exhibit at the administrative hearing. AR 138-155. The policy has a multi-step process before a check can be issued to an employee requesting travel reimbursement and ultimately requires the signature of the CFO or his delegate. AR 145-47. CFO Jeff Meyer testified that any reimbursement requires signature approval of himself or his delegate, in this instance

Elizabeth Ames. AR 33. Rapada testified she was aware of the policies. AR 60.

Next, the record supports the finding that on December 20, 2013, Rapada submitted a mileage report and requisition for mileage reimbursement that was required to be approved by Ames, but Rapada instead had a coworker process the request and print the mileage check. AR 312 (FF 5). Meyer, Ames, and Rapada all testified that the submitted mileage report and requisition were not approved by Ames. AR 27, 34-35, 49-50, 61-62, and 69-70. The record further supports the finding that Rapada was aware that this violated a regularly reinforced accounting policy. AR 312 (FF 5). Meyer testified that Rapada was present at three accounting staff meetings during 2013 where the importance of proper signatures was being emphasized. AR 36-37. Finally, the record supports that Rapada cashed the travel reimbursement after leaving work, without the required signature approval. AR 312 (FF 5). Rapada admitted this in a letter submitted to the Department, which was included as an exhibit to the administrative record. AR 105. Substantial evidence thus supports all the Commissioner's factual findings.

Rapada's argument to the superior court relied heavily on her assertion that facts beyond the factual findings should be considered so that the record may be viewed "as a whole." *See, e.g.*, CP 3 and 12

(arguing that whether Rapada engaged in misconduct should be determined by considering the record as a whole). While the Court should review the whole record, RCW 34.05.570(3)(e), to the Court must also “view the evidence and the reasonable inferences therefrom in the light most favorable to the party who prevailed” at the administrative proceeding below. *William Dickson Co.*, 81 Wn. App. at 411. Therefore, when looking to the record, this Court must view it in the light most favorable to the Tribe and the Department, not construe the record as a whole in favor of Rapada.

Additionally, Rapada also may ask this Court, as she did the superior court, to consider evidence in the record that was not made part of the factual findings. CP 10 and 12 (Mem. in Supp. of Pet. for Review). But the relevant facts before the Court are those that were entered as findings by the administrative law judge and adopted by the Commissioner; a reviewing court is not in a position to reweigh the evidence or make new findings. RCW 34.05.570(3)(e); *Tapper*, 122 Wn.2d at 403; *William Dickson Co.*, 81 Wn. App. at 411. Additionally, “[t]he trier of fact is not required to enter negative findings or to find that a certain fact has not been established.” *Scott R. Sonners, Inc. v. Dep’t of Labor & Indus.*, 101 Wn. App. 350, 356, 3 P.3d 756 (2000) (emphasis added). Thus, while Rapada has urged that certain additional facts justify her actions, those alleged facts were not made part of the Commissioner’s

factual findings, and the absence of those findings suggests the Commissioner was not persuaded by the evidence. *See State v. Armenta*, 134 Wn.2d 1, 14, 948 P.2d 1280 (1997) (“In the absence of a finding on a factual issue we must indulge the presumption that the party with the burden of proof failed to sustain their burden on this issue.”). This Court’s role is to review the findings actually made for substantial evidence in the record, not search the record for contrary evidence that may support findings Rapada wishes the Commissioner had made. *See Cummings v. Dep’t of Licensing*, 189 Wn. App. 1, 14, 355 P.3d 1155 (2015) (“[T]he fact that there is conflicting evidence in the record does not defeat the substantial evidence that supports the [agency’s] findings.”).

The Department also anticipates Rapada may argue that the Commissioner improperly reweighed witness testimony in reaching different findings of facts. *See CP 9 (Mem. in Supp. of Pet. for Review)*. But the Commissioner “is authorized to make his own independent determinations based on the record and has the ability and right to modify or replace an ALJ’s findings, including findings of witness credibility.” *Smith*, 155 Wn. App. at 35 n.2; RCW 34.05.464(4).

Below, the superior court improperly reweighed the evidence and entered new factual findings to determine that Rapada’s conduct constituted a good faith error in judgment. *See CP 95-98 (Findings of*

Fact, Conclusions of Law, and Order); *Tapper*, 122 Wn.2d at 403, 406 (court does not substitute its judgment for that of the agency as to the facts, instead it reviews the findings actually entered for substantial evidence). Here, this Court should decline any invitation to accept competing inferences and make findings beyond those made by the Commissioner, and instead should review the Commissioner's actual factual findings and hold they are supported by substantial evidence. *See William Dickson Co.*, 81 Wn. App. at 411; *Tapper*, 122 Wn.2d at 403, 406.

B. The Commissioner Correctly Concluded Rapada Was Not Entitled to Benefits Because She Was Discharged for Disqualifying Misconduct Under the Employment Security Act

Based on the factual findings, the Commissioner correctly applied the law to conclude Rapada was discharged for misconduct as defined by the Employment Security Act. Rapada committed *per se* misconduct when she violated a reasonable company rule of which she knew or should have known, RCW 50.04.294(2)(f), and her conduct was in willful or wanton disregard of her employer's rights, title, and interests. RCW 50.04.294(1)(a). Rapada's conduct was not a good faith error in judgment or discretion. *See* RCW 50.04.294(3)(c). The Court should affirm.

1. Rapada violated a reasonable company rule which she was aware of, RCW 50.04.294(2)(f).

An individual commits misconduct *per se* if he or she commits a “[v]iolation of a company rule if the rule is reasonable and if the claimant knew or should have known of the existence of the rule.” RCW 50.04.294(2)(f); *Daniels*, 168 Wn. App. at 728. The Commissioner correctly concluded that Rapada committed misconduct under this provision. AR 313.

Rapada has not disputed she was aware of the rule or that the rule was reasonable. *See* CP 1-12 (Mem. in Supp. of Pet. for Review). Further, the Nooksack Indian Tribe’s policy requiring written signature approval for reimbursement of travel expenses was reasonable. “A company rule is reasonable if it is related to your job duties, is a normal business requirement or practice for your occupation or industry, or is required by law or regulation.” WAC 192-150-210(4). Rapada was the accounting director for the Nooksack Indian Tribe. AR 312, FF 2. During the administrative hearing, Rapada made clear she understood the importance of all checks bearing appropriate signatures. AR 39-40. Ames further testified to the importance of proper signatures to avoid any audit findings that could jeopardize the tribe’s ability to receive federal funding and continue self-governance. AR 51-52. Rapada was present at

meetings where this was stressed. AR 53. For these reasons, the policy was related to Rapada's job duties and, therefore, reasonable. Since Rapada does not dispute that she violated this reasonable rule or that she was aware of it, she committed *per se* misconduct under the statute. Because the Commissioner properly concluded Rapada violated a reasonable employer rule, which she knew or should have known, Rapada was disqualified from benefits, and the Court should affirm.

2. Rapada's conduct amounted to a willful or wanton disregard of the interests of her employer, RCW 50.04.294(1)(a).

Rapada's conduct also amounted to a "[w]illful or wanton disregard of the rights, title, and interests of the employer."³ RCW 50.04.294(1)(a). "Willful" means "intentional behavior done deliberately or knowingly, where you are aware that you are violating or disregarding the rights of your employer or a co-worker." WAC 192-150-205(1). In determining whether the employee's actions were "willful," the focus is not on whether the employee intended to harm the employer but whether she acts deliberately or knowingly. *Hamel v. Emp't Sec. Dep't*, 93 Wn. App. 140, 146, 966 P.2d 1282 (1998); WAC 192-150-205(1). "[A]n

³ To affirm the Commissioner's decision, the Court need only conclude that Rapada's conduct constituted misconduct as defined in any one of the provisions in RCW 50.04.294(1) or (2). Therefore, if the Court concludes that Rapada's conduct constituted misconduct under RCW 50.04.294(2)(f)—violation of a reasonable company rule that Rapada knew or should have known about—it need not decide whether any other definition of misconduct applies.

employee acts with willful disregard when he (1) is aware of his employer's interest; (2) knows or should have known that certain conduct jeopardizes that interest; but (3) nonetheless intentionally performs the act, willfully disregarding its probable consequences. *Hamel*, 93 Wn. App. at 146-47 (emphasis added).

Here, Rapada's act of requesting the processing of a mileage reimbursement request and check printing, without approval of the CFO or his designate, and subsequently cashing the check demonstrated a willful or deliberate disregard of her employer's interests. CP 312 (FF 5); RCW 50.04.294(1)(a); WAC 192-150-205(1). Rapada knew that the check was not approved or signed by Ames, as required, but chose to cash the check anyway. *Id.* As discussed above, Rapada was well aware of the emphasis the Tribe had been recently placing on clean audits to allow the tribe to continue self-governance and receive federal funding. AR 51-53, 312 (FF 5). With her understanding of the importance of following the proper approval process, Rapada, at a minimum, "should have known" that her conduct would jeopardize her employer's interest. *Hamel*, 93 Wn. App. at 146-47. She nevertheless had a related coworker process the reimbursement and cashed the check without approval. The Commissioner properly concluded Rapada's conduct constituted a willful

disregard of the Nooksack Indian Tribe's interests. The Court should affirm the Commissioner's decision.

3. Rapada's conduct is not exempt from misconduct as a good faith error in judgment or discretion, RCW 50.04.294(3)(c).

Rapada previously argued her conduct is exempt from misconduct under RCW 50.04.294(3)(c) because her conduct was the result of a good faith error in judgment or discretion. CP 11-12. She is mistaken. Rapada violated the accounting policy at the end of 2013. AR 312 (FF 5). During 2013, the Nooksack Indian Tribe held three accounting meetings to reinforce the policy with accounting staff and emphasize the need to follow these procedures. AR 36-37, AR 312 (FF 5). Given the emphasis being placed in the year prior to her decision to violate the accounting policy, and her position as Accounting Director, Rapada's decision was not a good faith error in judgment.

Moreover, the policy was mandatory and "[d]irector approval *is always required* prior to any check being issued and signed." AR 210 (emphasis added), *See also* Nooksack Indian Tribe Accounting Policies and Procedures Manual AR 139-154. It did not allow employees room to exercise judgment or discretion to disregard it when compliance might be inconvenient. Accordingly, the exception does not apply; Rapada's conduct was not an error in judgment or discretion.

For the reasons discussed above, the Commissioner correctly concluded Rapada committed misconduct when she violated a reasonable company rule of which she knew or should have known, and she willfully disregarded her employer's interests. RCW 50.04.294(1)(a), (1)(b),(2)(f). She was, therefore, ineligible for unemployment benefits. RCW 50.20.066(1).

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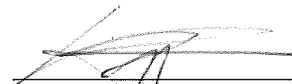
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VII. CONCLUSION

The Commissioner correctly concluded Rapada was discharged from employment for statutory misconduct and was, therefore, disqualified from receiving unemployment benefits. The Commissioner's decision is supported by substantial evidence and is free of errors of law. The Department asks the Court to reverse the superior court's decision and affirm the Commissioner's decision denying Rapada unemployment benefits.

RESPECTFULLY SUBMITTED this 30th day of December, 2015.

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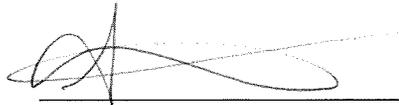
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I certify under penalty of perjury under the laws of the state of
Washington that the foregoing is true and correct.

DATED this 30th day of December, 2015, at Olympia, Washington.



AMY PHIPPS, Legal Assistant