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DISTRICT I

March 31, 2011

To:

Hon. William Sosnay
Circuit Court Judge
Milwaukee County Courthouse
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Milwaukee, WI 53233

John Barrett
Clerk of Circuit Court
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Labor & Industry Review Commission
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APB Security, LLC
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Milwaukee, WI 53209

Aaron Winters
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You are hereby notified that the Court has entered the following opinion and order:

2010AP2051

Aaron Winters v. Labor and Industry Review Commission
(L.C. #2009CV20135)

Before Fine, Kessler and Brennan, JJ.

Aaron D. Winters, *pro se*, appeals from an order of the circuit court, which affirmed a decision of the Labor and Industry Review Commission. Winters previously filed two unacceptable appellant's briefs. The first brief was not assembled and failed to comply with WIS. STAT. RULE 809.19 (2009-10).¹ The second brief—a single copy submitted by facsimile—was similarly non-compliant with briefing rules. By order dated March 11, 2011, we advised Winters why that brief could not be accepted, including the fact that the brief may not be filed by facsimile. See WIS. STAT. RULE 809.80(3)(b). We cautioned Winters that he must properly file

¹ All references to the Wisconsin Statutes are to the 2009-10 version unless otherwise noted.

and serve the brief, and that “[f]ailure to file a compliant brief and appendix may result in dismissal or summary affirmance of the appeal.” On March 25, 2011, Winters submitted a third non-compliant brief—a single copy via facsimile—directly contrary to our March 11 order. We now conclude summary disposition is appropriate in this case and we summarily affirm the order. *See* WIS. STAT. RULES 809.21(1) & 809.83(2).

Winters was initially denied unemployment compensation after it was determined he had been terminated from APB Security for the misconduct of yelling at an office manager and threatening a supervisor. An administrative law judge—who held a hearing at which Winters, the office manager, and the supervisor testified—and the Commission affirmed the determination that Winters had been terminated for misconduct and was therefore not entitled to unemployment benefits. Winters sought review from the circuit court, which affirmed the Commission.

The Commission’s determination of whether conduct constitutes misconduct is entitled to great weight deference. *Bunker v. LIRC*, 2002 WI App 216, ¶26, 257 Wis. 2d 255, 650 N.W.2d 864. In the absence of fraud or a lack of support by substantial and credible evidence, the Commission’s factual findings are binding on this court. *DILHR v. LIRC*, 155 Wis. 2d 256, 262, 456 N.W.2d 162 (Ct. App. 1990). We may not substitute our judgment for the Commission’s as to the weight of the evidence. *Kannenbergh v. LIRC*, 213 Wis. 2d 373, 385, 571 N.W.2d 165 (Ct. App. 1997). “The burden of establishing that the agency’s interpretation is unreasonable is on the party seeking to overturn the agency’s decision; the agency does not have to justify its interpretation.” *Bunker*, 257 Wis. 2d 255, ¶26. The Commission adopted the administrative law judge’s factual finding that Winters had been “discharged for misconduct connected with the work for the employer.”

Winters' entire argument is that he "disagrees" with the court's decision to deny him unemployment benefits, and that he feels he is "entitled" to unemployment compensation. However, Winters makes no attempt to show that the Commission's decision was in any way unreasonable. In light of the standard of review, we can find no basis for upsetting the Commission's decision.

Therefore,

IT IS ORDERED that the order is summarily affirmed.

A. John Voelker
Acting Clerk of Court of Appeals