

Mary E. Knighten appeals a decision by the Review Board of the Indiana Department of Workforce Development (“Board”) denying her unemployment benefits. Knighten raises one issue, which we restate as whether the Board’s determination that Knighten was terminated for good cause was reasonable. We affirm.

The facts most favorable to the Board’s determination follow. Knighten worked for Red Roof Inns as a housekeeper from May 6, 2005, to February 15, 2007. On February 14, 2007, Knighten approached the general manager, Nha-Luan Lam, and complained about the cleanliness of the cart room. Lam explained that they had been very busy and reminded Knighten that Knighten had been on unpaid vacation for over a week and that Knighten had not seen how hard everyone was working. Lam also discussed Knighten’s absence from work the previous day. Due to the loudness of Knighten’s voice, Lam and Knighten moved into the office. Knighten complained about Lam’s treatment of her, and when Lam tried to explain or respond, Knighten continued to raise her voice. Knighten told Lam that Lam was not doing her job. Lam felt threatened by the volume of Knighten’s voice and the fact that Knighten was six to eight inches from Lam’s face. Lam had previously reprimanded Knighten for her work performance and the volume of her voice. Knighten was terminated the next day for insubordination.

Knighten applied for unemployment benefits, and a claims deputy found that she was not discharged for just cause. Red Roof Inns appealed the eligibility determination, and a hearing was held before an administrative law judge (“ALJ”). After the hearing, the ALJ entered findings of fact and conclusions thereon as follows:

DECISION – REVERSED: Red Roof Inns Inc. discharged Mary Knighten for just cause in connection with employment. Ms. Knighten is ineligible to receive unemployment insurance benefits.

FINDINGS OF FACT: Red Roof Inns Inc., Red Roof, a hotel[,] employed Mary Knighten, discharging her on February 15, 2007. On February 14, 2007, Ms. Knighten approached General Manager Nha-luan Lam, complaining about the condition of rooms that Ms. Knighten had been assigned to clean. Initially, Ms. Knighten approached Ms. Lam at the front desk. Ms. Knighten spoke so loudly that Ms. Lam moved the conversation to her office. In the office Ms. Knighten continued to complain, the volume of her voice escalating. She moved within inches of Ms. Lam. She accused Ms. Lam of incompetence. Previously, Ms. Lam had reprimanded Ms. Knighten for similar misconduct.

CONCLUSIONS OF LAW: Red Roof discharged Ms. Knighten. An individual who is discharged for just cause in connection with employment is ineligible to receive unemployment insurance benefits. Ind. Code § 22-4-15-1(a).

“When the authority of those in whom the employer has confided responsibility for day-to-day operations is flouted by an employee’s willful disregard of reasonable directives, just cause for discharge of that employee exists.” Graham v. Review Board of the Indiana Employment Security Divisions, 386 N.E.2d 699, 702 (Ind. App. 1979). Complaining in an escalating voice, Ms. Knighten moved within inches of General Manager Lam. She accused Ms. Lam of incompetence. Ms. Knighten flouted the general manager’s authority.

Previously, Ms. Lam had reprimanded Ms. Knighten for similar misconduct. Warnings given to an employee have been held to justify the inference that the continued misconduct was the result of the employee’s willful and wanton indifference to the best interest of the employer, thus constituting just cause for dismissal. Cornell v. Review Board of the Indiana Employment Security Division, 383 N.E.2d 1102, 1107 (Ind. App. 1979). Ms. Knighten’s post-reprimand misconduct evidenced willful disregard of Red Roof’s reasonable expectation that she display due respect for the general manager.

Red Roof discharged Ms. Knighten for just cause in connection with employment. Ms. Knighten is ineligible to receive unemployment insurance benefits.

Appellant's Appendix at 50-51. Knighten appealed the ALJ's decision to the Board. The Board issued a decision adopting and incorporating by reference the ALJ's findings of fact and conclusions thereon and affirming the ALJ's decision.

The issue is whether the Board's determination that Knighten was terminated for good cause was reasonable. The Indiana Unemployment Compensation Act provides that "[a]ny decision of the review board shall be conclusive and binding as to all questions of fact." Ind. Code § 22-4-17-12(a) (2004). However, Ind. Code § 22-4-17-12(f) provides that when the Board's decision is challenged as contrary to law, the reviewing court is limited to a two part inquiry into: (1) "the sufficiency of the facts found to sustain the decision," and (2) "the sufficiency of the evidence to sustain the findings of facts." McClain v. Review Bd. of Ind. Dep't of Workforce Dev., 693 N.E.2d 1314, 1317 (Ind. 1998), reh'g denied. The Indiana Supreme Court clarified our standard of review of the Board's decisions in McClain:

Review of the Board's findings of basic fact [is] subject to a "substantial evidence" standard of review. In this analysis the appellate court neither reweighs the evidence nor assesses the credibility of witnesses and considers only the evidence most favorable to the Board's findings.

The Board's conclusions as to ultimate facts involve an inference or deduction based on the findings of basic fact. These questions of ultimate fact are sometimes described as "questions of law." They are, however, more appropriately characterized as mixed questions of law and fact. As such, they are typically reviewed to ensure that the Board's inference is "reasonable" or "reasonable in light of [the Board's] findings." The term "reasonableness" is conveniently imprecise. Some questions of ultimate fact are within the special competence of the Board. If so, it is appropriate for a court to exercise greater deference to the "reasonableness" of the Board's conclusion However, not all ultimate facts are within the Board's area of expertise. As to these, the reviewing court is more likely to exercise its own judgment. In either case the court examines the logic of

the inference drawn and imposes any rules of law that may drive the result. That inference still requires reversal if the underlying facts are not supported by substantial evidence or the logic of the inference is faulty, even where the agency acts within its expertise, or if the agency proceeds under an incorrect view of the law.

Id. at 1317-1318 (internal citations and footnotes omitted).

In Indiana, an employee is ineligible for unemployment benefits if he is discharged for just cause. Ind. Code § 22-4-15-1(a) (2004). Among the statutory definitions of discharge for just cause is “any breach of duty in connection with work which is reasonably owed an employer by an employee.” Ind. Code § 22-4-15-1(d)(8). Insubordination may be a proper basis for just discharge. Yoldash v. Review Bd. of the Employment Sec. Div., 438 N.E.2d 310, 312-315 (Ind. Ct. App. 1982). “When the authority of those in whom the employer has confided responsibility for day-to-day operations is flouted by an employee’s willful disregard of reasonable directives, just cause for discharge of that employee exists.” Graham v. Review Bd. of Indiana Employment Sec. Div., 179 Ind.App. 497, 501, 386 N.E.2d 699, 702 (1979). The burden was upon Red Roof to establish a prima facie case showing just cause, after which, the burden shifted to Knighten to produce rebuttal evidence. Stanrail Corp. v. Review Bd. of Dep’t of Workforce Dev., 735 N.E.2d 1197, 1203 (Ind. Ct. App. 2000), trans. denied.

Knighten argues that she was not intending to be threatening or intimidating to Lam, that she was not insubordinate, that she was competent to perform the work required, and that the “supposed inappropriate behavior is, at worst, a mere triviality.” Appellant’s Brief at 7. Essentially, Knighten requests that we reweigh the evidence and judge the credibility of the witnesses, which we cannot do. McClain, 693 N.E.2d at

1317. The Board found that Knighten spoke to Lam with a loud voice and the volume escalated during the conversation. Knighten was within inches of Lam during the conversation, and Knighten also accused Lam of incompetence. Given these findings of fact and Knighten's prior reprimands for similar misconduct, the Board's finding that Knighten was terminated for just cause is reasonable. See, e.g., Yoldash, 438 N.E.2d at 314-315 (holding that "the Review Board was justified in determining that Yoldash was discharged for just cause within the meaning of the statute because of his outburst of abusive and offensive language directed towards his superiors under the facts and circumstances in this case").

For the foregoing reasons, we affirm the Board's determination that Knighten was terminated for just cause.

Affirmed.

BARNES, J. and VAIDIK, J. concur