

IN THE TERRITORIAL COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX AT KINGSHILL

ANTILLES AUTOMOTIVE
(ST. THOMAS) CORPORATION,

Petitioner,

vs.

THE GOVERNMENT OF THE VIRGIN
ISLANDS DEPARTMENT OF LABOR
and TYRONE TODMAN,

Respondents.

CIVIL NO. 494/1996

ACTION FOR WRIT OF
REVIEW

NOT FOR PUBLICATION

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CABRET, J.

MEMORANDUM OPINION

(November 18, 1998)

Antilles Automotive (St. Thomas) Corporation ("Antilles") terminated Tyrone Todman from his employment with the company. Following an investigation, an adjudicator for the Virgin Islands Employment Security Agency ("Agency") found that Todman was terminated for misconduct and denied him unemployment insurance benefits. On appeal, an administrative law judge for the Agency ("ALJ") reversed the adjudicator's determination upon finding that although

Todman was "somewhat of a difficult employee," his actions "did not rise to the level of misconduct."¹ We granted Antilles' petition for a writ of review, and for reasons which follow, we affirm the decision of the ALJ.

"This Court's role in reviewing a determination in an unemployment compensation case is limited in scope. We are only to determine whether there is substantial evidence in the record before us to support the facts as found by the administrative agency below. Substantial evidence has been defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. The determination of what amount of evidence is substantial is a matter of law to be determined by the Court upon a considered evaluation of the entire record." Jackman v. Heyliger, 20 V.I. 536, 537-38 (D.V.I. 1984) (citations and punctuation omitted).

FACTS

The evidence in this case shows that Antilles employed Todman as a salesman. The day before Todman was terminated, General Motors' representatives were scheduled to visit Antilles, and the company wanted to make a good impression so that General Motors would supply Antilles with more cars for its inventory. Thus, the sales manager instructed the sales staff, which included Todman, to clean their offices. According to the sales manager, "[e]veryone cleaned their office except [Todman]."² The sales manager stated that he asked Todman to clean his office a second time, but that Todman again refused. After the sales manager discussed the incident with the general manager, they decided to "write [Todman] up and suspend him for three

¹ Decision of ALJ at 2.

² ALJ hearing, Tr. at 13.

days."³ When the sales manager presented the suspension notice to Todman, he refused to sign it, crumpled it up and threw it away. The sales manager informed the general manager what happened and they subsequently fired Todman for insubordination.

The general manager testified that Todman had previously been warned about violating company policies. The evidence showed that on two occasions in 1994, Todman was warned about arriving late for work. And, in February 1995, Antilles warned Todman that he violated company policy when he delivered a used car to a purchaser, but failed to obtain the purchaser's signatures on required documents. According to the general manager, the most recent incident, when Todman refused to clean his office and threw away the suspension notice, constituted "pure outright insubordination in front of other employees."⁴

In response to Antilles evidence, Todman testified that although he and the sales manager debated which of them kept the cleanest work area, he cleaned up his office as requested. Todman stated that when he returned from lunch, however, he found a suspension notice on his desk. According to Todman, after discussing the notice with his sales manager, he left the office. Later that day an Antilles employee called Todman to inform him he had been fired.

Based on the above evidence, the ALJ found that Todman "was instructed by [the sales manager] to clean his area. There was a discussion between [Todman] and [the sales manager] about who keeps the cleanest work space. Thereafter, [Todman] cleaned his work space and

³ ALJ hearing, Tr. at 17.

⁴ ALJ hearing, Tr. at 41.

went to lunch."⁵ The ALJ further found that after returning from lunch, Todman found a suspension notice on his desk, that he discussed the situation with his sales manager and that Todman was subsequently terminated from his position with Antilles. Although the ALJ found that Todman was "somewhat of a difficult employee," he concluded that Todman's actions "did not rise to the level of misconduct."⁶

DISCUSSION

"It is true that not every violation of employment procedure which constitutes a proper basis for an employee's dismissal constitutes misconduct warranting denial of unemployment benefits. As used in the unemployment compensation statute misconduct means an act of wanton or wilful disregard of an employer's interests, a deliberate violation of the employer's rules, a disregard for the standards of behavior which an employer has the right to expect from an employee, or negligence indicating an intentional disregard of the employer's interest or of employee's duties and obligations to the employer." Jackman, 20 V.I. at 538 (citations omitted).

In this case, it is clear that although the ALJ found Todman's conduct less than proper, it did not constitute misconduct warranting denial of unemployment benefits. The ALJ was presented with conflicting testimony concerning whether Todman complied with the sales manager's instructions to clean his work area. The ALJ obviously resolved this conflicting testimony in favor of Todman, finding he cleaned his work area as instructed. In light of Todman's testimony that he complied with the sales manager's instructions, this Court, with its

⁵ ALJ decision dated 8/7/96 at 2.

⁶ Decision of ALJ at 2.

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limited scope of review, cannot conclude that the ALJ's credibility decision was not supported by substantial evidence. *See, id.* at 537.

CONCLUSION

For the foregoing reasons, the Court finds that the ALJ's decision in this case was based on substantial evidence. The Court, therefore, will not disturb the ALJ's findings and the decision of the ALJ is accordingly affirmed.


MARIA M. CABRET
Territorial Court Judge

ATTEST:
YVONNE V. WESSELHOFT

Clerk of the Court

By: 

~~Deputy Clerk~~ *Jud. Post #*

Dated: 11/18/98