IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Rochester Machine Corporation, Petitioner	:	
v.	:	No. 1531 C.D. 2025
Unemployment Compensation Board of Review, Respondent	:	Submitted: Oct. 13, 2026

BEFORE: HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE MICHAEL H. WOJCIK, Judge
HONORABLE MATTHEW S. WOLF, Judge

OPINION
BY JUDGE McCULLOUGH FILED: November 13, 2026

Rochester Machine Corporation (Employer) petitions for review of the October 14, 2025 order of the Unemployment Compensation (UC) Board of Review (Board) that affirmed the UC referee's (Referee) grant of benefits to John Lucchesi (Claimant) pursuant to 402(e) of the Pennsylvania Unemployment Compensation Law (Law)[1] (relating to willful misconduct). On appeal, Employer contends it met its burden of establishing that Claimant's acts of willful misconduct disqualified him from receiving UC benefits. We affirm.

[1] Act of December 5, 1936, Second Ex.Sess., P.L. (1937) 2897, *as amended*, 43 P.S. § 802(e). Section 402(e) provides that: "An employe shall be ineligible for compensation for any week . . . [i]n which his unemployment is due to discharge or temporary suspension from work for willful misconduct connected with his work, irrespective of whether or not such work is 'employment' as defined in this act." 43 P.S. § 802(e).

Background

The relevant facts and procedural history of this case are as follows. Employer operates a custom fabricating business and machine shop located in Beaver County. Claimant worked full time for Employer as a machinist from January 6, 2025, until June 18, 2025, at a rate of $25.50 per hour. Employer had a points-based attendance policy pursuant to which employees accumulated points whenever they were late for or absent from work. The policy outlined a progressive eight-point discipline schedule, whereby Employer would take a series of actions before terminating an employee. On June 18, 2025, during Claimant's shift, damage was caused to the machine he was operating and to a crane at the worksite. (Certified Record (C.R.) at 161.) Claimant called off from work for his next three scheduled shifts, and Employer discharged him on June 24, 2025, for attendance issues, unsatisfactory work performance and damage to the machine and crane. (C.R. at 162.)

On June 29, 2025, Claimant applied for UC benefits, with effective and ending dates of June 29, 2025, and June 27, 2026, respectively. (C.R. at 9.) The UC Service Center issued a Notice of Determination on July 29, 2025, determining that Claimant qualified for UC benefits, and Employer appealed. The Referee conducted a hearing on September 3, 2025, at which it heard testimony from Employer's General Manager, Derek Russo, and its Vice President, Ben Bruce.[2]

Mr. Russo testified that Claimant initially worked alternating 10-hour day and night shifts, but switched to working nights only in May of 2025 because of attendance issues. (Reproduced Record (R.R.) at 10a.) Mr. Russo explained that Employer's attendance policy outlined in its employee handbook followed a progressive discipline schedule, and within each calendar year:

[2] Claimant did not appear at the hearing.

> [an employee would] have five days that you can be tardy that are kind of considered free days. And you have five absences that you — are considered free absences. And then after you begin to accumulate points. A half a point for each tardy. One point for each absence. When you accumulate six points you have a three[-]day unpaid suspension. If you accumulate seven you have a five[-]day unpaid suspension. And if you get to eight points it is termination.

(R.R. at 11a.)

Mr. Russo testified that all employees, including Claimant, were made aware of this policy on the first day of employment. He relayed that the decision to terminate Claimant was based on multiple reasons, including:

> [t]he final incident on his last night that he was there working which was June 18th, he had crashed the cutter head on the machine . . . which rendered the machine disabled. When he tried to take the piece that was on the machine off, he had disabled the crane [] by setting the part down on the ground too hard. Then the rest of the night he had decided to clean up. There wasn't many notes left of what had happened that night. We . . . came in the next morning to find that the machine was disabled and unable to run and the crane was not going to be able to be moved until things had gotten fixed.

(R.R. at 12a.) Mr. Russo indicated that Claimant had been trained to use this machine and was comfortable operating it. Mr. Russo also relayed that he did not speak with Claimant about the incident before Claimant was discharged.

As to the attendance policy, Mr. Russo testified that Claimant did not reach eight points, and that he had accumulated three points at the time he was terminated. (R.R. at 13a.) Mr. Russo stated that Claimant was discharged because of his attendance issues, job performance, and because of an incident that occurred during a May 7, 2025 meal break. Regarding this break, Mr. Russo explained that employees were permitted one on-premises 15-20 minute paid work break during each ten-hour

shift, and that Claimant violated this policy by leaving the property for 45-60 minutes to eat dinner, without clocking out. (R.R. at 14a.)

Employer's Vice President Ben Bruce testified that although Claimant was initially hired for a position requiring experience, management concluded that Claimant could not complete the necessary duties and transferred him to an entry level position without decreasing his pay rate. (R.R. at 15a.) Mr. Bruce relayed that he was not present during Claimant's final shift when the machine was damaged, and that it cost $12,000.00 to repair. Mr. Bruce opined that Claimant intentionally caused this damage by failing to follow certain notifications prompting him to stop the machine and change the cutter inserts. (R.R. at 16a.) However, Mr. Bruce clarified that the surveillance video he reviewed did not show whether these notifications actually went through, nor did it show Claimant taking any action or failing to take any action to cause damage to the machine. (R.R. at 17a.) Mr. Bruce testified that he did not speak with Claimant about the incident before he was terminated.

On September 3, 2025, the Referee issued a decision granting Claimant benefits pursuant to Section 402(e) of the Law, explaining the basis for her determination as follows:

> the Referee finds based on the competent evidence in the record that [E]mployer did not follow its progressive disciplinary procedure for attendance terminations at eight accrued attendance occurrence points as the [C]laimant only had three attendance occurrence points as of the date of discharge on June 24, 2025. Further, the Referee finds that [C]laimant's actions in damaging the machine and crane amount to simple negligence but there is no competent evidence in the record that [C]laimant was discharged for willful misconduct connected with employment. Accordingly, [C]laimant is eligible for UC benefits pursuant

> to Section 402(e) of the [] UC Law for the claim period at issue.

(C.R. at 163-64.)

Employer appealed to the Board, which issued an order on October 14, 2025, affirming the Referee's decision. The Board adopted the Referee's conclusions and additionally noted that "the dinner break issue on May 7 was too remote in time to be considered the actual cause for discharge." (C.R. at 152.) This petition for review followed.

Issue[3]

On appeal, Employer maintains it met its burden of proving it terminated Claimant for willful misconduct, thereby disqualifying him from receiving UC benefits. As disqualifying incidents, Employer points to: (1) the damage to the machine during Claimant's final shift, which it characterizes as an "intentional failure and deliberate choice to continue to cut, despite the warnings provided by the meter"; (2) the May 7 meal break where Claimant left the property to eat dinner, which Employer claims constituted theft and misconduct; and (3) Claimant's record of tardiness and absences that continued after Employer accommodated his shift change to nights only. (Employer's Br., at 14, 18-22.)

Discussion

As noted, Section 402(e) of the Law provides, "[a]n employe shall be ineligible for compensation for any week . . . [i]n which his unemployment is due to discharge . . . from work for willful misconduct connected with his work[.]" 43 P.S.

[3] "This Court's review of the Board's order is limited to determining whether constitutional rights were violated, whether an error of law was committed, or whether necessary findings of fact were supported by substantial evidence." *Corbin v. Unemployment Compensation Board of Review*, 355 A.3d 1033, 1036 n.3 (Pa. Cmwlth. 2026). "In unemployment compensation cases, the Board is the ultimate factfinder, and its findings are conclusive on appeal so long as the record, taken as a whole, contains substantial evidence to support those findings." *Id.*

§ 802(e). Although the term "willful misconduct" is not codified by statute, it has been defined by our courts as: "(1) wanton and willful disregard of an employer's interests; (2) deliberate violation of rules; (3) disregard of the standards of behavior which an employer can rightfully expect from an employee; or, (4) negligence showing an intentional disregard of the employer's interests or the employee's duties and obligations." *Ferguson v. Unemployment Compensation Board of Review*, 356 A.3d 278, 283 (Pa. Cmwlth. 2026). The employer bears the initial burden of proving a claimant engaged in willful misconduct and must establish that: "(1) the employee was engaged in willful misconduct; and (2) that the willful misconduct was the actual reason or the cause for the employee's separation from employment." *PrimePay, LLC v. Unemployment Compensation Board of Review*, 962 A.2d 684, 687 (Pa. Cmwlth. 2008).

It is also well-settled that an employer cannot prove willful misconduct by "merely showing that an employee committed a negligent act, but instead must present evidence indicating that the conduct was of an intentional and deliberate nature." *Rusecky v. Unemployment Compensation Board of Review*, 236 A.3d 101, 106 (Pa. Cmwlth. 2020). "Where the employee's negligence is of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design, or show an intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to the employer, the negligent act can constitute willful misconduct." *Id.* Our Supreme Court has explained that "a determination of whether an action constitutes willful misconduct requires a consideration of all of the circumstances, including the reasons for the employee's noncompliance with the employer's directives." *Grieb v. Unemployment Compensation Board of Review*, 827 A.2d 422, 426 (Pa. 2003). Additionally, "where an employer has a policy regulating attendance

that calls for a penalty less than discharge for a particular violation, a discharge for such violation will not result in a disqualification for willful misconduct." *Zimmerman v. Unemployment Compensation Board of Review*, 236 A.3d 151, 161 (Pa. Cmwlth. 2020). This is because, under such circumstances, "the promulgation of such specific rules puts employees on notice that the employer will not consider such conduct to be adverse to its interest until the requisite number of violations has been committed." *Id.* at 159.

Here, while Mr. Russo testified that Claimant intentionally damaged Employer's machine, he conceded that the videotape footage of Claimant's final shift did not show him taking any such action. Additionally, both Mr. Russo and Mr. Bruce acknowledged that they were not present during the incident and that they became aware of the damage the following morning. They then terminated Claimant without first discussing the incident with him.

As to Claimant's attendance issues, Employer voluntarily instituted a points-based progressive disciplinary policy, outlining specific consequences for employee lateness and absences. Employer also ensured that all employees, including Claimant, were aware of this policy by reviewing it with them on their first day of employment. Despite Employer's adoption of this policy, it discharged Claimant in part because of his attendance record, without adhering to its own progressive disciplinary system. Additionally, concerning Claimant's May 7 extended meal break, this incident occurred nearly two months before his termination, and Employer made the decision not to discharge him at that time. As the Board noted, this meal break was too remote in time to form the actual basis for Claimant's termination.

Based on the foregoing, considering all of the circumstances of this case, we discern no error in the Board's determination that the evidence failed to establish

Claimant's conduct was of an intentional and deliberate nature amounting to willful misconduct. In doing so, we reiterate that where an employer implements a specific disciplinary system, it is incumbent upon it to follow that system. *See Zimmerman*, 236 A.3d at 161. Accordingly, we affirm the decision of the Board.

_____

PATRICIA A. McCULLOUGH, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Rochester Machine Corporation, Petitioner	: :	
v.	:	No. 1531 C.D. 2025
Unemployment Compensation Board of Review, Respondents	: : :	

ORDER

AND NOW, this 13th day of November, 2026, the October 14, 2025 order of the Unemployment Compensation Board of Review is hereby AFFIRMED.

_____
PATRICIA A. McCULLOUGH, Judge