

Filed 05/07/20 by Clerk of Supreme Court

**IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

2020 ND 99

New Freedom Center, Inc.,

Petitioner and Appellant

v.

Job Service North Dakota,

Respondent and Appellee

and

James L. Maurer,

Respondent

No. 20190405

Appeal from the District Court of Burleigh County, South Central Judicial District, the Honorable Thomas J. Schneider, Judge.

AFFIRMED.

Per Curiam.

Monte L. Rogneby, Bismarck, ND, for petitioner and appellant.

Michael T. Pitcher, Assistant Attorney General, Bismarck, ND, for respondent and appellee.

New Freedom Center v. Job Service
No. 20190405

Per Curiam.

[¶1] New Freedom Center, Inc. (“NFC”) appealed from a district court judgment affirming Job Service North Dakota’s (“Job Service”) allowance of unemployment benefits to NFC’s former employee, James Maurer. NFC asserts Job Service erred when it found Maurer was not terminated for benefit-disqualifying misconduct. We conclude Job Service’s decision is supported by a preponderance of the evidence. *See Baier v. Job Service N.D.*, 2004 ND 27, ¶ 7, 673 N.W.2d 923 (applying preponderance of the evidence standard to misconduct determinations).

[¶2] NFC also argues Job Service erred when it refused to consider pornography that was allegedly discovered on Maurer’s work computer and when the appeals referee had an ex parte communication with Maurer. We conclude NFC waived these issues when its representative declined to testify about the pornography at the administrative hearing and when its representative did not object to the ex parte communication. *See McNamara v. Dir., N.D. Dep’t of Transp.*, 500 N.W.2d 585, 593 (N.D. 1993) (holding failure to assert objection at administrative hearing precludes litigant from raising issue on appeal).

[¶3] We summarily affirm under N.D.R.App.P. 35.1(a)(5) and (7).

[¶4] Jon J. Jensen, C.J.
Gerald W. VandeWalle
Lisa Fair McEvers
Daniel J. Crothers
Jerod E. Tufte