

1-11-3379

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

PAUL DISMUKES,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	
)	
ILLINOIS DEPARTMENT OF SECURITY,)	
an administrative agency in the state of)	No. 11 L 50811
Illinois, DIRECTOR OF ILLINOIS)	
DEPARTMENT OF SECURITY, BOARD)	
OF REVIEW, an administrative agency in)	
the state of Illinois, and ADMINISTRATIVE)	
OFFICE OF THE ILLINOIS COURTS,)	
employer,)	Honorable
)	Robert Lopez Cepero,
Defendants-Appellees.)	Judge Presiding.

JUSTICE CUNNINGHAM delivered the judgment of the court.
Justices Rochford and Delort concurred in the judgment.

ORDER

Held: This court affirms the judgment of the trial court which affirmed the Board of Review's decision that the plaintiff was terminated from his place of employment due to misconduct. The Board of Review's decision was not clearly erroneous.

¶ 1 This appeal arises from an October 27, 2011 order entered by the circuit court of Cook

County affirming the decision of defendant-appellee Board of Review of the Illinois Department of Employment Security (Board), which denied plaintiff-appellant Paul Dismukes' (Dismukes) claim for unemployment compensation benefits. On appeal, Dismukes argues that: (1) the Board's decision that Dismukes' behavior amounted to misconduct was clearly erroneous; (2) the trial court erred in denying Dismukes' request for a trial by jury on judicial review; (3) the trial court erred in affirming the Board's decision on a ground independent of the Board's reasoning; (4) the trial court erred as a matter of law in affirming the Board's decision; and (5) the trial court erred in not allowing Dismukes to develop the argument that the Board was not an impartial fact-finder when it rendered its decision. For the following reasons, we affirm the judgment of the circuit court of Cook County.

¶ 2

BACKGROUND

¶ 3 On July 2, 2007, Dismukes was hired as a paralegal by the Administrative Office of the Illinois Courts (AOIC). On October 19, 2010, Dismukes engaged in an argument with his supervisor, Marcia Meis (Meis), Senior Attorney in the Executive Office of the AOIC, and Mike Tardy (Tardy), then Executive Assistant to the Director of the AOIC. On October 22, 2010, Dismukes' employment with the AOIC was terminated. On October 27, 2010, Dismukes received a letter from the Director of the AOIC which alleged that Dismukes deleted AOIC computer files from his office computer. On October 31, 2010, Dismukes filed a claim for unemployment compensation benefits with defendant-appellee Illinois Department of Employment Security (Department). The AOIC challenged Dismukes' claim for unemployment benefits on the ground that Dismukes was fired for insubordination. On February 8, 2011, the Department issued a determination stating that Dismukes was eligible for unemployment benefits. On that same day, the

Department issued a corrected determination stating that Dismukes was not eligible for unemployment benefits. On February 14, 2011, Dismukes requested an administrative appeal of the Department's determination. On February 15, 2011, the Department scheduled a telephone appeal hearing.

¶ 4 The referee of the Department held telephone hearings on March 2, 2011 and March 23, 2011. During the hearings, Meis testified that one of Dismukes' assignments was to distribute legal books to staff members in the office once the books were delivered to the AOIC. On numerous occasions, Meis asked Dismukes about the location of a specific set of rule books that she expected to be delivered. Meis testified that on October 19, 2010, she was told by another staff member that the rule books were under Dismukes' desk. Meis discovered that the books were delivered in May 2010. She then called Dismukes into her office and asked why he had not yet distributed the books. Specifically, she asked "really, you didn't have any time in the last five months to open a box and hand me three books?" Dismukes responded "nope." Meis then told Dismukes that she thought he was mocking her. Meis testified that in response, Dismukes "laid into [her]." Dismukes began yelling and pointing his finger at Meis. Dismukes accused Meis of mocking him because when he interviewed for the position, he was told the position was for a paralegal but he felt that since he began his employment he had been assigned only administrative tasks. Meis testified that Dismukes was "yelling, and pointing his finger [at her] very aggressively." Meis explained to Dismukes that his assignments were not limited to administrative tasks, and that he was told in his interview that there was an administrative component to his position. According to Meis' testimony, Dismukes continued to yell.

¶ 5 Meis testified that Dismukes refused to disengage and kept interrupting her. Dismukes continued to argue his point in a "loud, hostile voice." Meis testified that Dismukes continued to point his finger [at her]. Meis stated that his voice was [loud and his tone was] very aggressive, disrespectful, and even abusive. Dismukes then accused Meis and Tardy of lying to him about his position. According to Meis, she then told Dismukes that he could leave her office if he was going to call her a liar. Meis testified that she opened her office door in order to ask Tardy to verify what she was saying to Dismukes, but she noticed that Tardy was already approaching her office. Tardy entered Meis' office and Meis shut the door. Meis testified that Tardy validated her earlier statements, and told Dismukes that all staff members perform administrative tasks. Dismukes continued to argue in a hostile manner "for at least another 10, maybe even 15 more minutes." Tardy then suggested that Dismukes leave Meis' office in order to calm down.

¶ 6 Meis testified that after the argument, she left her office for 45 minutes. When she returned, Dismukes still had not distributed the rule books. Dismukes did not speak to Meis again that day. When Meis left the office at the end of the day, the rule books had not been distributed. On October 20, 2010, Dismukes called Meis and left her a voicemail message saying that he would not be reporting to the office because he was sick. Meis testified that later that day, she and Tardy decided to terminate Dismukes' employment because "his behavior had been so extreme, and so insubordinate." Meis was scheduled to be out of the office on October 21, 2010, so she and Tardy decided that they would tell Dismukes that he was being terminated on October 22, 2010. On October 22, 2010, Meis and Tardy met Dismukes at the front door of the AOIC as he arrived at the office. They told Dismukes that his services were no longer needed and escorted him to his desk to

retrieve his personal items. Later that morning, Meis logged onto Dismukes' computer to retrieve AOIC computer files but quickly noticed that "hundreds of files" were missing. Meis testified that Dismukes did not access his computer on October 22, 2010, so the missing files must have been deleted before that day. Meis contacted the information technology (IT) staff of the AOIC, who confirmed that the missing files had been deleted. The IT staff told Meis that the files had last been accessed on October 21, 2010.

¶ 7 Tardy testified that his office is next to Meis' office. On October 19, 2010, Tardy's workday was interrupted by loud voices coming from Meis' office. As Tardy was leaving his office, he saw Meis leaving her office and noticed that she was distraught. Meis asked Tardy to join the conversation with Dismukes. Tardy testified that for about 10 or 15 minutes, Dismukes was very difficult and argumentative on every issue. Dismukes seemed agitated and extremely upset. Tardy testified that Dismukes was "clearly insubordinate in terms of his content and his tone towards [*sic*] his manager." Tardy also testified that he was not dealing with the content of the disagreement between Meis and Dismukes, instead, he was simply trying to calm down Dismukes. Tardy stated that by the end of the conversation, Dismukes had begun to calm down but the majority of the time he was very hostile and disrespectful.

¶ 8 Dismukes testified that on October 19, 2010, Meis called him into her office and asked him about rule books that had been found under his desk. Dismukes testified that he was not angry and that the interaction with Meis was a conversation. Dismukes stated that his voice was mischaracterized because he is a confident person and is not passive. Dismukes testified that he was not disrespectful or hostile, and did not point his finger at Meis. Dismukes also testified that he did

not delete any AOIC computer files and was not sure how the files got deleted.

¶ 9 On March 26, 2011, the referee of the Department issued a decision finding Dismukes ineligible for unemployment benefits. The referee found that on October 19, 2010, Dismukes was hostile, sarcastic, and abusive during the argument with his supervisor, Meis. Thus, the referee found that Dismukes' behavior constituted misconduct. The referee also found that Meis' belief that Dismukes deleted AOIC computer files was reasonable, and was additional evidence that Dismukes' actions went beyond mere argument and constituted misconduct.

¶ 10 On March 31, 2011, Dismukes filed an appeal with the Board. On June 27, 2011, the Board issued its decision finding that misconduct occurred based on Dismukes' behavior during the incident with Meis on October 19, 2010. The Board's decision stated, in pertinent part:

"At hearing [*sic*], the Claimant made much of the fact that he was dissatisfied with working conditions and that his work performance should not have been an issue in reaching a decision to discharge the Claimant. We agree with the Claimant, however, we find that the record supports a finding that the Claimant was not discharged for performance related issues, but because of his behavior in a meeting with his supervisor on October 19, 2010."

The Board also stated that it incorporated the referee's decision as part of its own decision. The Board noted that it did not consider Dismukes' written argument because he did not serve a copy of the argument to the opposing party as required in section 2720.315 of the Department's regulations. 56 Ill. Adm. Code 2720.315 (2011).

¶ 11 On July 26, 2011, Dismukes filed a complaint for administrative review in the circuit court of Cook County. Dismukes included a jury demand within his complaint. On October 27, 2011, the trial court affirmed the Board's decision. On November 15, 2011, Dismukes filed a notice of appeal before this court.

¶ 12 ANALYSIS

¶ 13 On October 27, 2011, the trial court affirmed the Board's decision finding that Dismukes was not eligible for unemployment benefits. On November 15, 2011, Dismukes filed a timely notice of appeal. Therefore, this court has jurisdiction to consider Dismukes' arguments on appeal pursuant to Illinois Supreme Court Rule 303 (eff. June 4, 2008).¹

¶ 14 We determine the following issues on appeal: (1) whether the Board's decision was clearly erroneous when it determined that Dismukes' behavior amounted to misconduct; and (2) whether the trial court errors alleged by Dismukes are subject to review by this court.

¶ 15 We first determine whether the Board's decision was clearly erroneous when it determined that Dismukes' behavior amounted to misconduct.

¹Before we address Dismukes' arguments on appeal, it is necessary to point out his disregard of the Supreme Court Rules governing appeals. These rules are not mere suggestions, rather, they have the force and effect of law and are binding on the courts and all parties. *In re Marriage of Thomsen*, 371 Ill. App. 3d 236, 241, 872 N.E.2d 1, 6 (2007). In Dismukes' brief, there are numerous blatant violations of the rules. Violation of the Supreme Court Rules is sufficient to result in the forfeiture of an argument. See *Putnam v. Village of Bensenville*, 337 Ill. App. 3d 197, 201-02, 786 N.E.2d 203, 205 (2003). This court would be well within its discretion to dismiss Dismukes' appeal in light of the significant violations of the Supreme Court Rules. However, the principle of forfeiture is an admonition to the parties and not a limitation on the power of the reviewing court. *Id.* Thus, we will resolve this appeal on the merits rather than impose the sanction of forfeiture.

¶ 16 Dismukes argues that his behavior on October 19, 2010, did not amount to misconduct because he did not knowingly violate an AOIC rule. He claims that if his behavior violated an implied rule, the Board failed to show that he was aware of the implied rule. Dismukes also argues that even if his behavior on October 19, 2010 violated a rule, it did not cause harm to the AOIC. Dismukes asserts that the argument with Meis was the first incident of its kind, and there was no harm to the AOIC as a result. He argues that potential harm to the employer is not enough to qualify his behavior as misconduct. Further, Dismukes claims that the Board erred by considering evidence that he deleted AOIC computer files because Meis did not become aware of the missing files until after his termination, and there is no proof that he actually deleted the files.

¶ 17 The Department responds by arguing that the Board correctly found that Dismukes' behavior on October 19, 2010 amounted to misconduct. The Board reviewed the entire record, Dismukes' application for benefits, and the transcript of the telephone hearings and found that Dismukes was terminated not for performance related issues, but because of his behavior toward Meis on October 19, 2010. On appeal, the Department points out that there is ample evidence from which the Board could determine that Dismukes' behavior amounted to misconduct. Thus, the Department asserts that the Board's decision cannot be viewed as clearly erroneous. The Department also points out that Dismukes' behavior was insubordinate, which also qualifies as misconduct. The Department argues that an employer does not need to have a written rule against insubordination because insubordination violates a standard of behavior that employers have a right to expect from their employees. Further, the Department asserts that Dismukes' behavior harmed the AOIC's interests because the argument disrupted Tardy's workday and could be heard throughout the common areas

of the office. The Department argues that in addition to the actual harm suffered by Tardy, Dismukes' behavior caused potential harm in creating a hostile work environment for other employees. Moreover, the Department contends that although the Board considered evidence that Dismukes deleted computer files in making its decision, the Board's final determination was based only on Dismukes' behavior on October 19, 2010.

¶ 18 It has been long held in Illinois that the duty of this court in reviewing a decision denying unemployment compensation benefits is to review the decision of the Board rather than the decision of the circuit court. *Sudzus v. Department of Employment Security*, 393 Ill. App. 3d 814, 819, 914 N.E.2d 208, 213 (2009). "The scope of judicial review of an administrative agency's decision extends to all questions of law and fact presented in the record." *Id.* at 819, 914 N.E.2d at 214; 735 ILCS 5/3-110 (West 2010). The standard of review that this court applies in reviewing an administrative agency's decision depends on whether the question presented is one of fact, law, or a mixed question of law and fact. *Sudzus*, 393 Ill. App. 3d at 819, 914 N.E.2d at 214. "[A] mixed question of law and fact is one in which the historical facts are submitted or established, the rule of law is undisputed, and the issue is whether the facts satisfy the statutory standard, or whether the rule of law as applied to the established fact is or is not violated." *Id.* at 820, 914 N.E.2d at 214 (quoting *Moss v. Department of Employment Security*, 357 Ill. App. 3d 980, 984, 830 N.E.2d 663, 667 (2005)). When the question presented is a mixed question of law and fact, this court applies the "clearly erroneous" standard of review. *Czajka v. Department of Employment Security*, 387 Ill. App. 3d 168, 173, 901 N.E.2d 436, 442 (2008). An administrative agency's decision is considered clearly erroneous only when the reviewing court is "left with the definite and firm conviction that a mistake

has been committed.' " *Id.* at 173, 901 N.E.2d at 443 (quoting *AFM Messenger Service, Inc. v. Department of Employment Security*, 198 Ill. 2d 380, 393, 763 N.E.2d 272, 280-81 (2001)). In this case, the issue is whether the facts of the incident on October 19, 2010 satisfy the statutory standard for misconduct. Therefore, we apply the clearly erroneous standard of review in resolving this issue.

¶ 19 According to section 602(A) of the Unemployment Compensation Act (Act) (820 ILCS 405/602(A) (West 2010)), if an individual is discharged from employment for misconduct, he is ineligible to receive unemployment benefits. "To establish statutory misconduct, the Board must determine whether: (1) there was a deliberate and willful violation of a rule or policy; (2) the rule or policy of the employing unit was reasonable; and (3) the violation either had harmed the employer or was repeated by the employee despite previous warnings." *Sudzus*, 393 Ill. App. 3d at 826, 914 N.E.2d at 219. Mere argument with a supervisor without the use of abusive language or threats is not enough to warrant discharge for misconduct under the Act. *Czajka*, 387 Ill. App. 3d at 176, 901 N.E.2d at 445. However, an individual may be disqualified from receiving unemployment benefits when he uses abusive language, which is a form of insubordination. *Greenlaw v. Department of Employment Security*, 299 Ill. App. 3d 446, 448, 701 N.E.2d 175, 177 (1998). An individual need not use profanity for his language to be insubordinate. *Id.* at 449, 701 N.E.2d at 178. Moreover, an employer does not need to prove that it has a reasonable rule or policy against employees using abusive language because common sense dictates that certain conduct intentionally and substantially disregards an employer's interests. *Id.* at 448, 701 N.E.2d at 177; See also *Czajka*, 387 Ill. App. 3d at 177, 901 N.E.2d at 445. In determining whether an employee's conduct harmed his employer, the employee's conduct should not be viewed narrowly in the context of actual harm, but should be

evaluated in terms of potential harm. *Greenlaw*, 299 Ill. App. 3d at 448, 701 N.E.2d at 177.

¶ 20 In this case, the referee of the Department made specific findings of fact regarding Dismukes' behavior on October 19, 2010, and the Board incorporated the referee's decision into its finding that Dismukes committed misconduct. Specifically, the referee found that during the argument with Meis, Dismukes became very loud, disrespectful, abusive and sarcastic. The referee also found that Dismukes called Meis a liar and that he was hostile during the argument. The referee noted that there was also evidence that Dismukes deleted AOIC computer files before he was terminated. Based on all the evidence, the Board made the determination that Dismukes was terminated "because of his behavior in a meeting with his supervisor on October 19, 2010." Although the AOIC did not present any written policy regarding abusive language or argument, the Board had ample evidence to determine that Dismukes' behavior amounted to misconduct. We find that it was reasonable for the Board to determine that Dismukes' actions were clearly insubordinate. The evidence easily supports the reasonable inference that Dismukes was insubordinate. As is his prerogative, the referee found and the Board adopted the finding that in arguing with Meis, Dismukes used abusive language and pointed his finger at her in a threatening manner. Thus, Dismukes' actions violated a reasonable standard of behavior that an employer expects from its employees.

¶ 21 Dismukes argues that the Board made its misconduct determination based on the evidence that Dismukes deleted AOIC computer files. However, this argument is a mischaracterization of the Board's decision as contained in the record. Although the referee considered the evidence of the deleted computer files, and the Board incorporated the referee's decision into its own decision, the Board ultimately found that Dismukes was terminated because of his behavior on October 19, 2010.

The Board did not mention the deleted computer files in its decision, and that evidence is only implicated through reference to the referee's decision. Also, the referee did not determine that Dismukes' behavior amounted to misconduct because of the evidence of the deleted computer files. Rather, the referee considered the deleted computer files as "additional evidence that [Dismukes'] actions in the workplace went beyond mere argument." Thus, neither the referee nor the Board specifically considered the act of deleting the computer files as an act of misconduct. Both the referee and the Board simply identified the act of deleting the computer files as one factor in determining whether *Dismukes' behavior with Meis* amounted to misconduct. Therefore, it is clear that Dismukes' behavior on October 19, 2010 satisfied the first two requirements of the statute defining misconduct. The only requirement that is still at issue is the requirement of harm.

¶ 22 Dismukes argues that his behavior did not amount to misconduct because the AOIC did not suffer actual harm, and potential harm to an employer does not qualify as misconduct. We disagree. The *Czajka* court recognized that there is a split of authority as to whether potential harm to an employer is enough to satisfy the harm requirement for statutory misconduct. *Czajka*, 387 Ill. App. 3d at 179, 901 N.E.2d at 447. Illinois courts have held that potential harm does not satisfy the requirements of statutory misconduct in cases where company uniforms improperly discarded by a plaintiff employee were found by another employee (see *Adams v. Ward*, 206 Ill. App. 3d 719, 729, 565 N.E.2d 53, 58 (1990)), and where it was argued that a bus driver's unauthorized stops somehow put bus passengers at risk (see *Zuaznabar v. Board of Review of Department of Employment Security*, 257 Ill. App. 3d 354, 357, 628 N.E.2d 986, 989 (1993)). *Czajka*, 387 Ill. App. 3d at 179, 901 N.E.2d at 447. On the other hand, Illinois courts have held that potential harm does satisfy the

requirements of misconduct as defined by the statute in numerous cases including *Manning v. Department of Employment Security*, 365 Ill. App. 3d 553, 558, 850 N.E.2d 244, 248 (2006). *Id.*

¶ 23 In *Manning*, the plaintiff was discharged by her employer for leaving a hostile, intimidating, and vulgar voicemail message on a co-worker's home voicemail. *Manning*, 365 Ill. App. 3d at 554, 850 N.E.2d at 245. The plaintiff was also seen slamming doors in her place of employment and heard to be using profanity under her breath. *Id.* at 555, 850 N.E.2d at 246. The plaintiff was denied unemployment benefits on the basis that she was discharged for misconduct, and this decision was affirmed by the referee of the Department, the Board, and the trial court. *Id.* at 554-56, 850 N.E.2d at 245-47. This court held that the plaintiff's behavior satisfied the requirements for statutory misconduct because although the hostile voicemail did not directly harm the employer, it was potentially harmful to the employer's interests because the plaintiff's conduct could adversely affect the work environment. *Id.* at 558, 850 N.E.2d at 248.

¶ 24 We find that the case before us is analogous to *Manning*. In this case, the referee found and the record supports that Dismukes was hostile, abusive and disrespectful when arguing with Meis on October 19, 2010. Although he did not slam doors or use profanity, Dismukes' hostile behavior occurred during work hours and lasted significantly longer than the plaintiff's behavior in *Manning*. Thus, Dismukes' behavior was potentially harmful to the AOIC because it could have adversely affected the work environment. Furthermore, the AOIC suffered actual harm due to Dismukes' behavior because he disrupted the workday of Meis and Tardy. Meis spent approximately 30 minutes attempting to manage Dismukes' behavior. There was testimony that Dismukes' yelling was so loud that Tardy had to leave his office and spend 15 minutes trying to diffuse the situation.

Further, Dismukes' behavior was carried out within the hearing of other employees. Therefore, the AOIC suffered both actual and potential harm as a result of Dismukes' behavior on October 19, 2010.

¶ 25 We find that Dismukes' behavior on October 19, 2010, satisfies all three requirements of statutory misconduct. Thus, we cannot say that the Board made a mistake in its determination that misconduct occurred. Accordingly, we hold that the Board's decision that Dismukes' behavior amounted to misconduct was not clearly erroneous.

¶ 26 We next determine whether the trial court erred as alleged by Dismukes and, if so, whether those errors are subject to review by this court.

¶ 27 As previously discussed, the duty of this court in reviewing a decision which denied unemployment compensation benefits is to review the decision of the Board rather than the circuit court. *Sudzus*, 393 Ill. App. 3d at 819, 914 N.E.2d at 213. Thus, any findings or errors made by the trial court are not relevant because this court's review is limited to the propriety of the final agency decision. *Oleszczuk v. Department of Employment Security*, 336 Ill. App. 3d 46, 50, 782 N.E.2d 808, 811 (2002). In this case, the final agency decision was the Board's decision that Dismukes' behavior amounted to misconduct. Accordingly, in light of our holding that the Board's decision which found that Dismukes' behavior amounted to misconduct, was not clearly erroneous, we will not consider Dismukes' arguments regarding the alleged trial court errors.

¶ 28 We note that even if we were to consider Dismukes' arguments regarding the alleged trial court errors, there is not enough information in the record for this court to resolve the issues that Dismukes presents. "Where there is a gap in the record that could have a material impact on the outcome of the case, the reviewing court will presume that the missing evidence supported the

judgment of the trial court and resolve any doubts against the appellant." *Midwest Builder Distributing, Inc. v. Lord and Essex, Inc.*, 383 Ill. App. 3d 645, 655, 891 N.E.2d 1, 13 (2007). The record is devoid of any transcript or report of proceedings of the trial court's judicial review hearing. All that is contained in the record regarding the trial court's judicial review is Dismukes' complaint for administrative review and the October 27, 2011 order entered by the trial court which states "[t]he decision of the Board of Review is affirmed." The record *does* include an affidavit executed by Dismukes in which he purports to summarize the trial court proceedings. Dismukes cites to this affidavit in support of his arguments that the trial court committed multiple errors. However, as the Department points out, this affidavit is not a proper bystander's report. Illinois Supreme Court Rule 323(c) (eff. Dec. 13, 2005) requires a party preparing a bystander's report to serve the report upon opposing counsel for stipulation, or have the report certified by the circuit court. In this case, there is no evidence that Dismukes fulfilled either of these requirements regarding his affidavit and there is no evidence that the Department stipulated to the contents of Dismukes' affidavit. Thus, we cannot refer to Dismukes' affidavit as a reference regarding the proceedings in the trial court. We must resolve the absence of the trial court proceedings against Dismukes. Thus, we are not able to further address his issues which claim errors by the trial court.

¶ 29 Another issue raised by Dismukes is the trial court's failure to allow a jury trial regarding the review of the Board's decision. However, despite including a jury demand within his complaint filed in the circuit court, Dismukes did not have the right to a jury trial on administrative review. As the Board correctly points out in its argument, section 3-110 of the Administrative Review Law (735 ILCS 5/3-110 (West 2010)) states:

"Every action to review any final administrative decision shall be heard and determined by the court with all convenient speed.

*** No new or additional evidence in support of or in opposition to any finding, order, determination or decision of the administrative agency shall be heard by the court." 735 ILCS 5/3-110 (West 2010).

The Board correctly asserts that the Administrative Review Law was designed to provide a single method of judicial review for decisions made by most administrative agencies, and prohibits the use of preexisting methods to secure judicial review. *Stykel v. City of Freeport*, 318 Ill. App. 3d 839, 845, 742 N.E.2d 906, 911 (2001). The Administrative Review Law envisions neither a jury trial nor a *de novo* review of an agency's decision, but mandates a limited review by the circuit court of the record developed before the agency in question. Further, Dismukes' claim to a constitutional right to a jury trial fails because the provision of the Illinois Constitution that guarantees that right has been consistently interpreted by the Illinois Supreme Court to be inapplicable to special or statutory proceedings unknown at common law. See *City of Monmouth v. Pollution Control Board*, 57 Ill. 2d 482, 485, 313 N.E.2d 161, 163 (1974).

¶ 30 Under the statutory provision of the Administrative Review Law, when a plaintiff appeals from the Board's decision, the trial court functions as a reviewing court. Thus, Dismukes is not entitled to a jury trial simply because he included a jury demand when he filed his complaint for administrative review. Accordingly, we find no merit to Dismukes' argument that the trial court erred in denying his request for a trial by jury.

¶ 31 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County which

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affirmed the decision of the Board.

¶ 32 Affirmed.