MISSOURI COURT OF APPEALS
WESTERN DISTRICT

VICKI UNRUH

RESPONDENT,

v.

STATE BOARD OF NURSING

APPELLANT.

DOCKET NUMBER WD83507 Consolidated with WD83519

DATE: December 22, 2020

Appeal From:

Cole County Circuit Court
The Honorable Daniel R. Green, Judge

Appellate Judges:

Division Four: Cynthia L. Martin, Chief Judge, Presiding, Mark D. Pfeiffer, Judge and Anthony Rex Gabbert, Judge

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Attorneys:

Keith G. Liberman, St. Louis, MO, for respondent.

Kevin R. Hall, Jefferson City, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

VICKI UNRUH, RESPONDENT,
v.
STATE BOARD OF NURSING, APPELLANT.

WD83507 (Consolidated with WD83519) Cole County

Before Division Four Judges: Cynthia L. Martin, Chief Judge, Presiding, Mark D. Pfeiffer, Judge, and Anthony Rex Gabbert, Judge

The Board of Nursing appealed after the circuit court reversed the Board's decision to impose the discipline of revocation, and instead imposed the discipline of probation, on Vickie Unruh's nursing license, and after the court found that although one basis for discipline found by the Administrative Hearing Commission was supported by competent evidence, another was not. Unruh cross-appealed. As the party aggrieved by the administrative agency's decision, Unruh was required to file the first brief by Rule 84.05(e). Unruh failed to do so, despite notice of dismissal pursuant to Rule 84.08. Her appeal was dismissed. As a result, Unruh has not preserved any issue for appellate review, and is unable to sustain her burden to demonstrate that the agency decisions in this case were incorrect.

Vacate circuit court's judgment and remand this matter with instructions to reinstate the decisions of the AHC and the Board.

Division Four holds:

1. Unruh was the deemed appellant in the Board's appeal pursuant to Rule 84.05(e) and in her own appeal. She had the obligation to file the appellant's brief in both appeals; bore the same burden in both appeals; and was subject to the same sanction for failure to file an appellant's brief in both appeals.

2. Unruh's right to seek appellate review of the agency decisions giving rise to revocation of her nursing license was appropriately dismissed after she failed to file the appellant's brief as required by Rule 84.05(e), despite due notice of dismissal as required by Rule 84.08(a).

3. The Board has requested that we vacate the circuit court's Judgment pursuant to Rule 84.08(b). We are obligated to afford this relief as Unruh has preserved

no issue for appellate review, and cannot sustain her burden to demonstrate that the agency decisions were incorrect.

Opinion by: Cynthia L. Martin, Judge December 22, 2020

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