

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 538

September Term, 2016

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DAVID THOMPSON

v.

MARYLAND DEPARTMENT OF  
AGRICULTURE

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Berger,  
Kehoe,  
Sharer, J. Frederick  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Sharer, J.

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Filed: June 12, 2017

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

David Thompson, appellant, an employee of the Maryland Department of Agriculture, was disciplined for insubordination and suspended from his job for ten days. After exercising his rights of review pursuant to Md. Code, State Personnel & Pensions Article, § 11-110, the suspension was upheld following a hearing before an Administrative Law Judge.<sup>1</sup> The decision of the ALJ was affirmed by the Circuit Court for Anne Arundel County.

### **Standard of Review**

It is “[b]ecause an appellate court reviews the agency decision under the same statutory standards as the circuit court, [that] we reevaluate the decision of the agency, not the lower court.” *Consumer Prot. Div. v. George*, 383 Md. 505, 512 (2004) (quoting *Watkins v. Sec’y, Dep’t. of Pub. Safety & Corr. Services*, 377 Md. 34, 45-46 (2003)). Therefore, our review of an agency decision “‘is limited to determining if there is substantial evidence in the record as a whole to support the agency’s findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law.’” *W.R. Grace & Co. v. Swedo*, 439 Md. 441, 453 (2014) (quoting *Bd. of Physician Quality Assur. v. Banks*, 354 Md. 59, 67-68 (1999)). In our review, we consider “only the materials that were in the record before the agency at the time it made its final decision.” *Dep’t. of Labor v. Boardley*, 164 Md. App. 404, 415 (2005) (internal citation omitted).

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<sup>1</sup> During the hearing, which produced 363 pages of transcript, the ALJ heard from six witnesses, with one rebuttal witness, and considered 21 documentary exhibits.

When “applying the substantial evidence test, a reviewing court decides whether a reasoning mind reasonably could have reached the factual conclusion the agency reached.” *Motor Vehicle Admin. v. Weller*, 390 Md. 115, 141 (2005) (quoting *Banks*, 354 Md. at 68). “Moreover, a reviewing court should defer to the agency's fact-finding and drawing of inferences if they are supported by the record, and must review the agency's decision in the light most favorable to it.” *Motor Vehicle Admin. v. McMillan*, 428 Md. 560, 565 (2012) (internal quotation and citation omitted). Accordingly, agency “decisions are *prima facie* correct and carry with them the presumption of validity.” *Doe v. Allegany County Dept. of Soc. Services*, 205 Md. App. 47, 55 (2012) (internal citations omitted).

Because the standard for our review is highly deferential to the agency, when reviewing its findings and decisions, we are limited to determining solely whether they are “arbitrary, illegal, capricious or unreasonable.” *Harvey v. Marshall*, 389 Md. 243, 295 (2005) (quoting *Criminal Injuries Comp. Bd. v. Gould*, 273 Md. 486, 501 (1975)). “An agency’s actions will be classified as arbitrary and capricious if they are unreasonabl[e] or without rational basis[.]” *Dep’t of Human Res., Baltimore City Dep’t of Soc. Services v. Hayward*, 426 Md. 638, 647 (2012) (internal quotation and citation omitted) and if they are “contrary to the evidence or established rules of law.” *Harvey*, 389 Md. at 298 (internal quotation and citation omitted).

Having exercised a highly deferential standard of review to the record before us, we find substantial evidence to support the agency’s findings and conclusions. Finding neither

abuse of discretion nor erroneous conclusions of law, we shall affirm for the reasons stated by the Administrative Law Judge in her thorough opinion.

**JUDGMENT OF THE CIRCUIT  
COURT FOR ANNE ARUNDEL  
COUNTY AFFIRMED; COSTS  
ASSESSED TO APPELLANT.**