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Minn. Stat. § 480A.08, subd. 3 (2006).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-1639**

Lizabeth A. LaVoy,
Relator,

vs.

EdVisions Cooperative Corp.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed July 29, 2008
Affirmed
Kalitowski, Judge**

Department of Employment and Economic Development
File No. 6411 07

Lizabeth A. LaVoy, Box 21, Naytahwaush, MN 56566-0021 (pro se relator)

EdVisions Cooperative Corp., P. O. Box 518, Henderson, MN 56044 (respondent)

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MN 55101-1351 (for respondent Department of Employment and Economic
Development)

Considered and decided by Peterson, Presiding Judge; Kalitowski, Judge; and
Collins, Judge.*

* Retired judge of the district court, serving as judge of the Minnesota Court of Appeals
by appointment pursuant to Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

KALITOWSKI, Judge

Relator Lizabeth A. LaVoy challenges the decision of the unemployment law judge (ULJ) that because relator quit her job she is not qualified to receive unemployment benefits. Relator argues that she had good reason to quit caused by her employer because (1) her director told her to falsify a report to the department of education (DOE); and (2) conditions were otherwise adverse because her director unfairly criticized and overly scrutinized her work. We affirm.

DECISION

Relator asserts that she is entitled to unemployment benefits because she quit her job for good reason caused by her employer. We disagree.

Minn. Stat. § 268.105, subd. 7(d) (2006), provides the current statutory standard of review. We

may affirm the decision of the unemployment law judge or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because the findings, inferences, conclusion, or decision are:

- (1) in violation of constitutional provisions;
- (2) in excess of the statutory authority or jurisdiction of the department;
- (3) made upon unlawful procedure;
- (4) affected by other error of law;
- (5) unsupported by substantial evidence in view of the entire record as submitted; or
- (6) arbitrary or capricious.

Minn. Stat. § 268.105, subd. 7(d). A person who voluntarily quits employment is disqualified from receiving all unemployment benefits unless the applicant quit employment because of a good reason caused by the employer. Minn. Stat. § 268.095, subd. 1(1) (2006). A good reason to quit caused by the employer must be “directly related to the employment and for which the employer is responsible,” adverse to the employee, and one that “would compel an average, reasonable worker to quit.” Minn. Stat. § 268.095, subd. 3(a)(1)-(3) (2006).

The determination that an employee quit without good reason attributable to the employer is a legal conclusion that we review de novo. *Peppi v. Phyllis Wheatley Cmty. Ctr.*, 614 N.W.2d 750, 752 (Minn. App. 2000). But this legal conclusion must be based on findings of fact that are substantially supported by the evidence as a whole. Minn. Stat. § 268.105, subd. 7(d)(5); *Nichols v. Reliant Eng’g & Mfg., Inc.*, 720 N.W.2d 590, 594 (Minn. App. 2006). The ULJ’s factual findings are viewed in the light most favorable to the ULJ’s decision, and we defer to any credibility determinations supporting those findings. *Skarhus v. Davanni’s Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006).

Here, the record supports the ULJ’s determination that relator did not quit for a good reason caused by her employer as defined by section 268.095, subdivision 3. Relator cited two main reasons for her resignation: (1) being told by her director to falsify a report to the DOE; and (2) working in otherwise adverse conditions where the director overly scrutinized and unfairly criticized her work.

DOE-reporting Dispute

The record supports the ULJ's determination that the dispute that arose between relator and her director regarding the DOE report would not compel the average worker to quit. "Illegal conduct by an employer may constitute good cause for an employee to quit." *Hawthorne v. Universal Studios, Inc.*, 432 N.W.2d 759, 762 (Minn. App. 1988). But here, there is no evidence that relator's employer engaged in any illegal activity. Although relator thought it was necessary to designate another employee as a seventh-grade teacher, the director testified that she believed it was inaccurate and unnecessary to designate the other employee as such since she taught a multi-age class that included both sixth and seventh graders and often collaborated with the seventh-grade teachers. Based on this testimony, we conclude that there is substantial evidence on record supporting the ULJ's finding that, regardless of which reporting method was, in fact, proper, the director's position was in good faith and not wholly unreasonable.

Moreover, even if the DOE-reporting dispute did amount to an adverse working condition, Minn. Stat. § 268.095, subd. 3(c) (2006), requires that an applicant first complain to her employer and give her employer "a reasonable opportunity to correct [an] adverse working condition[] before [it] may be considered a good reason caused by the employer for quitting." Here, relator did not complain to anyone at EdVisions Cooperative about the DOE-reporting conflict before she quit, nor did she note her concern about this incident in her two-week resignation notice when she listed her reasons for leaving. Because relator did not complain to her employer about the DOE-

reporting conflict before she quit, she did not give EdVisions Cooperative a reasonable opportunity to resolve the dispute and thereby correct the adverse working condition.

Adverse Working Environment

Similarly, the record supports the ULJ's determination that relator's complaints about her director's unfair treatment would not compel the average worker to quit. We have previously held that "'good cause attributable to the employer' does not encompass situations where an employee experiences irreconcilable differences with others at work." *Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 14 (Minn. App. 1986); *see also Bongiovanni v. Vanlor Investments*, 370 N.W.2d 697, 697-99 (Minn. App. 1985) (a personality conflict is not good reason for quitting "where evidence shows disharmony between an executive and the employee but does not show that the employer acted unreasonably or in breach of employment duties.").

Here, although relator claims that her work environment was "so adverse that [she] could not do [her] job," her only complaint is that her director unfairly monitored and criticized her work. And an investigator testified that her inquiry into relator's complaints led her to find that the dispute between relator and the director was nothing more than an ordinary personality conflict. Based on this evidence, we conclude that there is substantial support for the ULJ's finding that relator's complaints about her director's unfair treatment would not compel the average worker to quit.

In sum, we conclude that the ULJ's determination that relator quit without good reason attributable to her employer was consistent with Minn. Stat. § 268.095, based on factual findings substantially supported by the evidence as a whole, and not arbitrary or

capricious. Therefore, the ULJ did not err in disqualifying relator from receiving unemployment benefits.

Affirmed.