STATE OF MINNESOTA
IN COURT OF APPEALS
A07-0882

Lisa M. Chapin,
Relator,

vs.

DA Strumstad and Associates, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

Filed May 6, 2008
Affirmed
Minge, Judge

Department of Employment and Economic Development
File No. 1483 07

Lisa M. Chapin, 1302 Eddy Street, Hastings, MN 55033 (pro se relator)

DA Strumstad and Associates, Inc., 825 Sibley Memorial Highway, St. Paul, MN 55118-1709 (respondent employer)

Lee B. Nelson, Katrina I. Gulstad, Department of Employment and Economic Development, 332 Minnesota Street, E200 First National Bank Building, St. Paul, MN 55101-1351 (for respondent department)

Considered and decided by Connolly, Presiding Judge; Kalitowski, Judge; and Minge, Judge.

U N P U B L I S H E D O P I N I O N

MINGE, Judge

Relator appeals her disqualification from unemployment insurance benefits by writ of certiorari, arguing that (1) she did not voluntarily terminate her employment; and (2) even if she did, she had "good cause" for doing so as a result of the office manager's offensive behavior. Because the unemployment law judge (ULJ) did not err in determining that relator quit without good cause, we affirm.

FACTS

Relator Lisa Chapin was employed as a secretary by respondent DA Strumstad and Associates, Inc. from October 4, 2004 until December 13, 2006. Chapin experienced ongoing difficulties with the office manager, Sonya Strom, who was also the daughter of Duane Strumstad, the president, and Joan Strumstad, an officer, of the company. Chapin contends that her workplace was made untenable by Strom's behavior, which included slamming doors and drawers, refusing to talk to Chapin, and refusing to give her any work to do. Her testimony regarding the atmosphere of the workplace environment is undisputed. As a result of the office conditions, she spoke with president Duane Strumstad about obtaining new employment sometime in the coming months.

On December 13, 2006, Joan Strumstad was in the office. Joan Strumstad testified that she approached Chapin, intending to speak with her about personal e-mails Chapin had sent from her office computer that allegedly called Strom a "b-tch" and disparaged the company. She did not immediately discuss the e-mails, but intended to first address other performance problems she had heard about. Joan Strumstad began by inquiring

what could be done to improve the situation. Chapin replied, "I better leave." Joan stated that when she asked Chapin when she intended to leave, Chapin responded "[n]ow," packed her belongings, and left. Chapin disputed this account.

The ULJ determined that Chapin quit her employment without good reason caused by the employer and that she had committed employment misconduct because of her inappropriate use of e-mail, both of which disqualified her from receiving unemployment benefits. This certiorari appeal follows.

D E C I S I O N

This court may reverse or modify a ULJ's decision if the employee's substantial rights have been prejudiced because the ULJ's findings, inferences, conclusion, or decision are affected by error of law or are arbitrary or capricious. Minn. Stat. § 268.105, subd. 7(d)(4), (6) (2006). Questions of law are reviewed de novo. *Schmidgall v. FilmTec Corp.*, 644 N.W.2d 801, 804 (Minn. 2002). We review the ULJ's factual findings to determine whether they are supported by substantial evidence, and we defer to the ULJ's credibility determinations. Minn. Stat. § 268.105, subd. 7(d)(5) (2006) (defining substantial evidence standard); *Skarhus v. Davanni's, Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006) (stating that we view the ULJ's findings of fact in the light most favorable to the decision); *Nichols v. Reliant Eng'g & Mfg., Inc.*, 720 N.W.2d 590, 594 (Minn. App. 2006) (noting that credibility determinations are resolved by the ULJ and that this court will defer to those determinations on appeal).

I.

The first issue is whether Chapin quit or was discharged from her employment. Whether an employee voluntarily quit is a question of fact for the decision-maker. *Hayes v. K-Mart Corp.*, 665 N.W.2d 550, 552 (Minn. App. 2003), *review denied* (Minn. Sept. 24, 2003). But "[w]hether a claimant is properly disqualified from the receipt of unemployment benefits is a question of law, which this court reviews de novo." *Id.* "A quit from employment occurs when the decision to end the employment was, at the time the employment ended, the employee's." Minn. Stat. § 268.095, subd. 2(a) (2006).

Here, the ULJ determined that, although Chapin claimed that she had been told by her employer that she "should leave," the testimony of Joan Strumstad and Strom was more credible regarding what transpired on Chapin's last day. Joan testified that it was not her intent to discharge Chapin the day she left and that Chapin decided to leave the employment of her own accord. The ULJ also noted that their testimony was corroborated by Chapin's own testimony regarding her dissatisfaction with her job, as well as her meeting with Duane Strumstad, during which she informed him of her plans to look for another job. Although Chapin urges us to adopt her version of events over what the ULJ determined to be credible evidence, we defer to the ULJ's credibility determinations and will not reweigh the testimony on appeal. *See Nichols*, 720 N.W.2d at 594. We conclude that the ULJ's factual determination that Chapin quit, rather than having been discharged, is based on substantial evidence.

II.

Having determined that Chapin quit, the next question is whether, as a matter of law, she qualifies for any exceptions under Minn. Stat. § 268.095, subd. 1 (2006). *See Peppi v. Phyllis Wheatley Cmty. Ctr.*, 614 N.W.2d 750, 752 (Minn. App. 2000) (stating that whether an applicant quit for good reason caused by the employer is a question of law reviewed de novo). An applicant who quits his or her employment is disqualified from receiving benefits unless one of eight enumerated exceptions applies. Minn. Stat. § 268.095, subd. 1. One exception is when an employee quits because of a good reason caused by the employer. Minn. Stat. § 268.095, subd. 1(1). A good reason to quit caused by the employer must be "directly related to the employment . . . for which the employer is responsible," "adverse" to the employee, and enough to "compel an average, reasonable worker to quit and become unemployed . . . ." Minn. Stat. § 268.095, subd. 3(a) (2006). If workers are subject to adverse conditions, they must complain to the employer and give the employer the opportunity to correct the problem before it will be considered good reason to quit. Minn. Stat. § 268.095, subd. 3(c).

"The phrase 'good cause attributable to the employer' does not encompass situations where an employee experiences irreconcilable differences with others at work or where the employee is simply frustrated or dissatisfied with his working conditions." *Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 14 (Minn. App. 1986); s*ee also Trego v. Hennepin County Family Day Care Assoc.*, 409 N.W.2d 23, 26 (Minn. App. 1987) (holding that an employee's dissatisfaction with the interim director was not a good reason caused by the employer to quit).

However, Minnesota workers are not required to adorn themselves in heavy armor merely to weather a hostile workplace environment in order to qualify for benefits in the event that they quit. *See Sunstar Foods, Inc. v. Uhlendorf*, 310 N.W.2d 80, 84-85 (Minn. 1981) (noting that wage cuts of 20-25% have been considered an adequate basis caused by the employer to quit); *Tru-Stone Corp. v. Gutzkow*, 400 N.W.2d 836, 838 (Minn. App. 1987) (determining that harassment by fellow employees constituted "good cause" to quit where management had notice of the harassment but failed to respond to it); *Porrazzo v. Nabisco, Inc.*, 360 N.W.2d 662, 663 (Minn. App. 1985) (concluding that applicant had good reason caused by his employer to quit because his relationship with his supervisor was unworkable and his work hours and responsibilities increased without any increase in salary). In *Tru-stone*, this court acknowledged that an employee has demonstrated "good cause" for quitting "attributable to the employer" when the employee has (1) been subjected to harassment; and (2) has given the employer notice of the harassment and an opportunity to correct the problem. *Tru-Stone*, 400 N.W.2d at 839. If the employee is given an expectation of assistance from the employer, he or she then has a duty to keep the employer apprised of any additional harassment. *Id.*

Here, Chapin alleges that her work environment had become unduly stressful because of Strom's rude behavior. The evidence that Strom engaged in door and drawer slamming and refused to speak with Chapin is undisputed. It is also undisputed that Chapin gave notice of what she identified as ongoing harassment to Duane Strumstad, the president of the company. She stated that he attempted to resolve the situation, and there was at least a temporary improvement. This not only gave the company a reasonable

opportunity to correct the offending condition, but also indicated to Chapin that the president would attempt to respond to her complaints. The precipitating event that caused Chapin to leave her employment was her contact with Joan Strumstad who attempted to discuss the company's e-mail policy and performance expectations with Chapin. In the context of that attempt, Chapin terminated her employment. Despite Duane Strumstad's earlier receptivity to Chapin's complaints, she did not approach him again about Strom's conduct or any perceived harassment Chapin was experiencing from Joan Strumstad. Because she had already been given a reasonable expectation of assistance from Duane Strumstad to address any perceived harassment, Chapin had a duty to keep him appraised of any new developments. Rather than contacting him, Chapin quit. Based on this record, we conclude that the ULJ did not err in ruling that Chapin voluntarily terminated her employment without good cause and was disqualified from unemployment benefits.

The determination that Chapin quit without good cause is an adequate basis for finding her disqualified from receiving employment benefits, and we do not consider allegations that Chapin had engaged in misconduct.

Affirmed.

Dated: