STATE OF MINNESOTA
IN COURT OF APPEALS
A07-1805

Jean M. Kavitz,
Relator,

vs.

Prairie Island Indian Community,
Respondent,

Department of Employment and Economic Development,
Respondent.

Filed July 15, 2008
Affirmed
Collins, Judge[*]

Department of Employment and Economic Development
File No. 9401 07

Jean M. Kavitz, N1590 840th Street, Hager City, WI, 54014 (pro se relator)

Peter R. Jones, Prairie Island Indian Community, 5636 Sturgeon Lake Road, Welch, MN 55089 (for respondent Prairie Island Indian Community)

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

Considered and decided by Connolly, Presiding Judge; Ross, 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.

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

COLLINS, Judge

Relator challenges the determinations of the unemployment-law judge that (1) she did not quit her employment for good reason caused by the employer and (2) she did not fit within the medically necessary exception, and that she is thus disqualified from receiving unemployment benefits. We affirm.

D E C I S I O N

Whether an employee had good cause to quit is a question of law reviewed de novo. *Peppi v. Phyllis Wheatley Cmty. Ctr.*, 614 N.W.2d 750, 752 (Minn. App. 2000). But where the legal conclusion is based on factual determinations, we view the ULJ's findings in the light most favorable to the decision, deferring to any credibility determinations supporting the findings. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). This court does not disturb the ULJ's factual findings when the evidence substantially sustains them. Minn. Stat. § 268.105, subd. 7(d)(5) (2006).

I.

Relator Jean M. Kavitz argues that she quit her employment for good reason caused by the employer and that the unemployment-law judge (ULJ) thus erred in disqualifying her from unemployment benefits. We disagree.

Generally, quitting disqualifies individuals from receiving unemployment benefits. Minn. Stat. § 268.095, subd. 1 (2006). But an individual is not disqualified if she "quit the employment because of a good reason caused by the employer." *Id.*, subd. 1(1).

> A good reason caused by the employer for quitting is a reason: (1) that is directly related to the employment and for which the employer is responsible; (2) that is adverse to the worker; and (3) that would compel an average, reasonable worker to quit and become unemployed rather than remaining in the employment.

Id., subd. 3 (2006).

Kavitz quit her employment by failing to show up for a scheduled shift. She argues that she was forced to quit due to poor management. But personality conflicts and imperfect working conditions do not constitute good cause for quitting. *See Trego v. Hennepin County Family Day Care Ass'n*, 409 N.W.2d 23, 23-24 (Minn. App. 1987) ("[d]issatisfaction with 'crisis situation' working conditions and the existence of a personality conflict" did not establish good cause for relator's quit); *Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 14 (Minn. App. 1986) (holding that "irreconcilable differences with others at work" or frustration with working conditions did not constitute good cause for the quit); *Bongiovanni v. Vanlor Invs.*, 370 N.W.2d 697, 699 (Minn. App. 1985) (holding that the relator did not have good cause to quit when the employer would not talk to her, greatly reduced her work duties, and made it clear that he did not want relator there).

Kavitz also argues that she was forced to quit because she assumed that she would be discharged. Although Kavitz speculated that she would be discharged because her employer had asked her to report earlier than her scheduled shift to discuss a customer's complaint, even "[n]otification of [certain] discharge in the future . . . is not considered a good reason caused by the employer for quitting." Minn. Stat. § 268.095, subd. 3(e)

(2006). The ULJ concluded that "it is reasonable for an employer to meet with its employees to discuss potential policy violations . . . the average, reasonable worker would not be compelled to quit given Kavitz's circumstances."

Moreover, "[i]f an applicant was subjected to adverse working conditions by the employer, the applicant must complain to the employer and give the employer a reasonable opportunity to correct the adverse working conditions before that may be considered a good reason caused by the employer for quitting." *Id.*, subd. 3(c) (2006). Although Kavitz testified that she had complained to management on several occasions in 2006, she did not complain thereafter before quitting in May 2007.[1]

We conclude that the ULJ's determination that Kavitz did not quit for a good reason caused by her employer is legally correct and supported by substantial evidence in the record.

II.

Kavitz argues that it was medically necessary that she quit and that the ULJ thus erred in disqualifying her from unemployment benefits. We disagree.

[1] We note that in its brief the employer argues that it learned of Kavitz's concerns for the first time at the hearing. But it did not dispute her testimony at the hearing. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating this court should not consider matters not argued and considered below). But because the ULJ did not address this notice issue, this fact dispute is irrelevant.

An applicant is not disqualified from receiving unemployment benefits if

> the applicant quit the employment because the applicant's serious illness or injury made it medically necessary that the applicant quit, provided that the applicant inform[ed] the employer of the serious illness or injury and request[ed] accommodation and no reasonable accommodation [was] made available.

Minn. Stat. § 268.095, subd. 1(7) (2006).

Kavitz submitted medical information for the first time with her request for reconsideration after the hearing. The ULJ must order a new hearing if post-hearing evidence would either (a) change the outcome of the decision *and* it was not submitted prior to the hearing for good cause or (b) show information submitted at the hearing and relied upon by the ULJ is likely false. Minn. Stat. § 268.105, subd. 2(c) (2006). If neither condition is satisfied, the ULJ is precluded from considering the new evidence. *Id.* This court will reverse the ULJ's decision not to hold an additional evidentiary hearing only for an abuse of discretion. *Skarhus*, 721 N.W.2d at 345.

Kavitz did not offer any explanation for failing to submit this evidence prior to the hearing. Thus, she failed to establish good cause for the omission. Moreover, the new evidence would not affect the outcome because Kavitz did not claim that she had informed her employer of her health issues or requested an accommodation. Accordingly, there is no evidence that the employer refused Kavitz a reasonable accommodation. Finally, the new evidence does not indicate that any of the evidence relied on by the ULJ was false. Therefore, the ULJ did not abuse his discretion or otherwise err by declining to remand the case for a new hearing. *Id.*; *see* Minn. Stat.

§ 268.105, subd. 7(d)(4)-(5) (stating that this court will uphold the ULJ's conclusions if unaffected by error of law and supported by substantial evidence). Moreover, we note that, even if considered, the evidence submitted by Kavitz did not establish that she fit within the medically necessary exception because there is no evidence that a reasonable accommodation was refused by her employer.

Affirmed.