STATE OF MINNESOTA
IN COURT OF APPEALS
A08-1563

Angela Heiderscheid,
Relator,

vs.

Minneapolis Public Housing,
Respondent,

Department of Employment and Economic Development,
Respondent.

Filed June 16, 2009
Affirmed
Connolly, Judge

Department of Employment and Economic Development
File No. 20889741-3

Angela M. Heiderscheid, 3921 Gramsie Court, Shoreview, MN 55126-7048 (pro se relator)

Minneapolis Public Housing Authority, 1001 Washington Avenue North, Minneapolis, MN 55401 (respondent-Minneapolis Public Housing)

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 (respondent-Department)

Considered and decided by Connolly, Presiding Judge; Peterson, Judge; and Stauber, Judge.

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

CONNOLLY, Judge

Relator contends that she is eligible for unemployment benefits because she was subjected to adverse working conditions caused by her employer. Because the unemployment-law judge's (ULJ) decision that relator did not quit for a good reason caused by her employer is substantially supported by the evidence in the record, we affirm.

FACTS

Relator Angela M. Heiderscheid worked for the Minneapolis Public Housing Authority (MPHA) as a management aide from June 25, 2007 to May 16, 2008, the date that she handed in her letter of resignation. Relator contends that she is eligible for unemployment benefits because she was subjected to adverse working conditions by her immediate supervisor. In her brief, relator describes her supervisor as "intimidating, extremely authoritative, racist, and threatening." In contrast, her supervisor testified that he never screamed at relator, never raised his voice when speaking to her, never swore at her, "absolutely" did not threaten to terminate her employment, never disciplined her in any way, was so satisfied with her work that "I gave [relator] one of the highest appraisals that I ever have given anyone in this agency," was never physically intimidating towards her, and never struck her.

On April 11, 2008, relator met with Judy Johnson, MPHA's principal-assets operations manager, to discuss her supervisor's management style. At this meeting relator stated that her supervisor yelled at her. Relator also discussed specific things that

she thought her supervisor did wrong with his job. Johnson acknowledged that relator's supervisor had an authoritarian management style, and that his direct and firm manner of giving instructions could at times be interpreted as yelling. But she went on to state that relator's supervisor was not doing anything unethical, and that he was basing his management decisions on his experience. Relator went on to allege that her supervisor was a racist, but, when Johnson asked her to provide specific examples of racist behavior, relator was unable to provide any examples. Several weeks after relator's meeting with Johnson, Johnson, relator, and relator's supervisor met to discuss relator's concerns. This meeting proved unfruitful because its focus quickly turned to things that relator thought her supervisor was doing wrong at his job rather than on what steps could be taken to improve the situation.

On May 15, 2008, relator met with Susan Norby, MPHA's human resources manager, to discuss the situation. Norby informed relator that another opening in her job classification would soon be posted, and that she should consider applying for it. Norby explained that jobs were internally posted for a week, and that if she wanted to apply for it, then she would have to return to her job while she filled out the bid form and went through the application process. Rather than pursue this option, relator handed in her letter of resignation the next day. The position Norby referred to was indeed posted on the afternoon of the fifteenth.

Relator applied for unemployment benefits, and a Department of Employment and Economic Development (DEED) adjudicator initially determined that relator was ineligible for benefits. Relator appealed, and a de novo hearing was held before a ULJ.

The ULJ affirmed the adjudicator's decision, determining that relator was ineligible for benefits because she "quit without a good reason caused by [her employer.]" Relator filed a request for reconsideration. The ULJ affirmed the initial decision. This matter is before the court on a writ of certiorari obtained by relator pursuant to Minn. Stat. § 268.105, subd. 7(a) (Supp. 2007) and Minn. R. Civ. App. P. 115.

D E C I S I O N

When reviewing the decision of a ULJ,

> [t]he Minnesota Court of Appeals 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:
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> (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); *see Ywswf v. Teleplan Wireless Servs., Inc.*, 726 N.W.2d 525, 529 (Minn. App. 2007) (citing this standard of review).

"We view the ULJ's factual findings in the light most favorable to the decision, giving deference to the credibility determinations made by the ULJ. In doing so, we will not disturb the ULJ's factual findings when the evidence substantially sustains them." *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006) (citations omitted). "Credibility determinations are the exclusive province of the ULJ and will not be

disturbed on appeal." *Id.* at 345. When addressing a question of law, this court is "free to exercise [ ] independent judgment." *Jenkins v. Am. Express Fin. Corp.*, 721 N.W.2d 286, 289 (Minn. 2006).

An applicant who quits employment is ineligible for unemployment benefits unless a statutory exception applies. Minn. Stat. § 268.095, subd. 1 (Supp. 2007). One of these exceptions is when an employee quits for a good reason caused by the employer. *Id.*, subd. 1(1). A good reason for quitting caused by the employer is a reason that (1) "is directly related to the employment and for which the employer is responsible;" (2) "is adverse to the worker;" and (3) "would compel an average, reasonable worker to quit and become unemployed rather than remaining in the employment." *Id.*, subd. 3(a) (Supp. 2007). If an applicant alleges she was subject to adverse working conditions, then she "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). Whether or not an employee quit for a good reason caused by the employer is a fact-specific inquiry. *Id.*, subd. 3(b).

When explaining the reasoning for her decision, the ULJ stated that the "evidence does not show that [MPHA] treated [relator] adversely or that an average reasonable employee would quit." The ULJ went on to state that "[relator] did not have a specific example of her supervisor, [], which would show that she was being harassed or threatened," that "[t]here is not evidence of a hostile working environment," and that "[relator] did not make any specific complaints to [MPHA] that would lead them to believe there was a hostile and antagonistic work environment."

1. Work environment.

Relator argues that her supervisor's intimidating management style compelled her to quit, but was only able to cite one specific incident in which her supervisor raised his voice when speaking to her. By relator's own admission, her supervisor never threatened her with termination, gave her a written warning, suspended her, intimidated her physically, or touched her inappropriately. For his part, relator's supervisor denied having ever yelled at relator, and even stated that "I gave [relator] one of the highest appraisals that I ever have given anyone in this agency." At best, the record shows that relator's supervisor had a very direct management style and made decisions that relator often disagreed with. This is insufficient to warrant a good reason caused by the employer for quitting. *See Bongiovanni v. Vanlor Invs.*, 370 N.W.2d 697, 697 (Minn. App. 1985) ("Voluntary separation from employment is not attributable to an employer 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.").

In *Bongiovanni*, the evidence established that the employer was dissatisfied with the employee's work and wanted to terminate the employee but was powerless to do so because of an employment agreement. *Id.* at 698. The employee claimed that the employer relieved her of many tasks and, at about the same time, hired another employee to do miscellaneous office work in an attempt to force her to resign, which she ultimately did. *Id.* This court held that this work environment did not constitute a good reason to quit caused by the employer. *Id.* at 699. Here, relator's supervisor testified that he approved of relator's job performance. While the record indicates that relator desired

greater job duties, there is no evidence that any responsibilities were taken away from her. Also, although relator's supervisor may have been an authoritative supervisor, relator's specific complaints about him do not rise to the level that would compel an average, reasonable worker to quit.

2. Reasonable opportunity to correct.

Even if relator's supervisor's actions were sufficient to create adverse working conditions that would compel an average, reasonable worker to quit, relator did not give MPHA a reasonable opportunity to make corrections prior to quitting. Relator first raised concerns about her supervisor's management style on April 11. In response to these concerns, a meeting with relator, relator's supervisor, and Johnson was arranged, which did not prove fruitful. Johnson hoped this meeting would address relator's concerns, but testified that no resolution was reached because relator focused on what her supervisor was doing wrong at his job. Relator next met with Norby on May 15. Norby informed relator that a job within MPHA that relator was qualified for would be posted shortly, but rather than apply for this job, relator made the decision to quit work the following day.

Finally, it is difficult, based upon testimony from the hearing, to determine what remedial steps MPHA could have taken to address relator's concerns. Relator continually made vague assertions about her supervisor's intimidating behavior, but was able to provide only one specific example that could be classified as intimidating. Most of relator's complaints to MPHA dealt with what relator believed were her supervisor's poor management skills. Without more specific information, MPHA was not in the

position to identify any hostile or antagonistic behavior that relator's supervisor needed to modify.

Because the evidence substantially supports the finding that relator's work environment would not compel an average, reasonable employee to quit, and because the evidence substantially supports the finding that relator did not provide MPHA with a reasonable opportunity to correct her working conditions, the ULJ's determination is affirmed.

Affirmed.