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Minn. Stat. § 480A.08, subd. 3 (2008).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A08-1431**

Suzanne M. Roelandt,  
Relator,

vs.

Department of Human Services,  
Respondent,

Department of Employment and  
Economic Development,  
Respondent.

**Filed July 14, 2009  
Affirmed  
Klaphake, Judge**

Department of Employment and Economic Development  
File No. 20852175-2

Suzanne M. Roelandt, 17817 Gayle Drive, Little Falls, MN 56345-6462 (pro se relator)

Minnesota Department of Human Services, P.O. Box 64997, St. Paul, MN 55155  
(respondent)

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

Considered and decided by Kalitowski, Presiding Judge; Klaphake, Judge; and  
Hudson, Judge.

## **UNPUBLISHED OPINION**

**KLAPHAKE**, Judge

Relator Suzanne Roelandt challenges the decision of the unemployment law judge (ULJ) that she was ineligible for unemployment benefits because she quit without good reason caused by her employer. Because relator was offered a choice of remaining in her job at her current pay but with the possibility that the location would be changed or accepting a severance package, and she chose to accept the severance package, we conclude that she quit without good reason caused by her employer and therefore affirm.

### **FACTS**

Relator worked as a social worker for the State of Minnesota, Department of Human Services (DHS), for almost 36 years. Her position at Children and Adolescent Behavioral Services, along with those of 46 others, was eliminated in January 2008. Relator was a member of MAPE (Minnesota Association of Professional Employees), which has an agreement with DHS that prevents DHS from laying off MAPE employees. DHS gave relator three options upon elimination of her position. First, she could continue to work for DHS in a comparable or better position, but the job could be located anywhere in the state. If relator opted to move under this option, DHS would pay her moving expense, and there would be no gap in pay or benefits. Relator declined this option because she did not want to relocate.

Second, relator could bump a less-senior MAPE employee, if she qualified for the position. At the time she was notified, relator was not eligible for other positions under

this option because she had a bachelor's degree and the positions were held either by people with master's degrees or with specific credentials that she lacked.

Third, relator could choose from among three different severance package options; she chose to select the option that included insurance coverage until she reached the age of 65. Relator was 61 years of age at the time of termination. After her employment ended, relator applied for unemployment benefits and was determined to be ineligible. Relator appealed the determination and the ULJ affirmed, concluding that relator is ineligible because she voluntarily quit without good cause attributable to her employer. The ULJ affirmed this determination on reconsideration.

## **D E C I S I O N**

We will reverse the ULJ's decision if it is unsupported by the evidence or affected by an error of law. Minn. Stat. § 268.105, subd. 7(d)(4), (5) (Supp. 2007). We review the ULJ's factual findings in the light most favorable to the decision. *Skarhus v. Davanni's, Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). Whether an employee quit because of a good reason caused by the employer is a question of law subject to de novo review. *Munro Holding, LLC v. Cook*, 695 N.W.2d 379, 384 (Minn. App. 2005). Relator does not contest the ULJ's findings of fact.

An employee who voluntarily quits his or her employment is ineligible for unemployment benefits. Minn. Stat. § 268.095, subd. 1 (Supp. 2007). But an employee who quits for a good reason caused by the employer remains eligible for unemployment benefits. *Id.*, subd. 1(1). "Good reason caused by employer" is defined as a reason "directly related to the employment and for which the employer is responsible," which is

adverse to the employee, and which would compel the average, reasonable worker to quit rather than remain employed. *Id.*, subd. 3(a) (2008). Each case must be analyzed on its specific facts. *Id.*, subd. 3(b) (2008). An employee is not justified in quitting because of notification of a future discharge or layoff. *Id.*, subd. 3(e) (2008). A good personal reason is not the same as good cause. *Kehoe v. Minnesota Dep't of Econ. Sec.*, 568 N.W.2d 889, 891 (Minn. App. 1997).

Generally, an employee who has the choice of remaining employed but accepts an incentive to participate in early retirement is not eligible for unemployment benefits. *Id.*; *see also Edward v. Sentinel Mgmt. Co.*, 611 N.W.2d 366, 368 (Minn. App. 2000) (affirming disqualification from benefits when employee agreed in workers compensation claim settlement to retire, instead of continuing to work and prosecute claim), *review denied* (Minn. Aug. 15, 2000).<sup>1</sup>

Some cases suggest that an employee has good reason caused by an employer to quit when an employer alters the terms and conditions of employment to a meaningful degree. In *Rootes v. Wal-Mart Assocs., Inc.*, 669 N.W.2d 416, 419 (Minn. App. 2003), this court concluded that the employee had good reason caused by the employer to quit,

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<sup>1</sup> In an earlier decision, this court determined that an employee who accepted a retirement package after being notified of an impending layoff had not voluntarily retired but had been induced to retire because of the impending layoff. *Reserve Mining Co. v. Anderson*, 377 N.W.2d 494, 497 (Minn. App. 1985), *review denied* (Minn. Jan. 17, 1986). This court concluded that it constituted good cause attributable to the employer. *Id.* Since the date of that decision, Minn. Stat. § 268.095 has been amended to include a provision that notice of a future discharge, including a layoff, is not considered a good reason caused by the employer for quitting. *Id.*, subd. 3(e); *see* 2004 Minn. Laws ch. 183, § 63 (adding subdivision 3(e)).

after she was demoted; although she did not inquire about the exact terms of employment before quitting, the employee knew that “the demotion would result in reduced wages, changed hours, and weekend shifts.” *Id.* We concluded that this amounted to a substantial change in circumstances that justified a voluntary quit. *Id.* A substantial decrease in wages can also justify a voluntary quit. *Dachel v. Ortho Met, Inc.* 528 N.W.2d 268, 270 (Minn. App. 1995) (opining that a wage cut of more than 10-15% is significant). And an employee whose job is changed to one requiring substantially less skill and with fewer opportunities for advancement has good reason caused by the employer to quit. *See Holbrook v. Minnesota Museum of Art*, 405 N.W.2d 537, 539 (Minn. App. 1987) (concluding that offering assistant curator clerical position on reduced pay scale constituted good cause to quit), *review denied* (Minn. July 15, 1987); *but see Johnson v. Walch & Walch, Inc.*, 696 N.W.2d 799, 802 (Minn. App. 2005) (concluding that employee was ineligible for benefits because change in circumstances was minor and potential loss of income was speculative), *review denied* (Minn. July 19, 2005); *Wood v. Menard, Inc.*, 490 N.W.2d 441, 444 (Minn. App. 1992) (concluding change in duties not necessarily a demotion and remanding for determination regarding change in pay).

Relator argues that she was forced to quit because the circumstances of her job would change; she either would be expected to relocate anywhere in the state to fill a similar or better job, or she could bump someone else but only to the extent that there was an appropriate job for which she was qualified. But relator’s situation differs from that in *Rootes*. Relator was guaranteed by her MAPE contract that she would not be laid off; relator had the option of continuing in a similar or better job at the same salary and with

the same benefits, with the possibility, but not the certainty, that she would have to relocate. Had relator chosen this option, she would have continued to draw the same salary and to receive the same benefits until she was placed in a new position. In contrast, the employee in *Rootes* faced an almost certain demotion in pay, hours, and responsibility, with no alternative presented. 669 N.W.2d at 419. In this sense, relator's situation is closer to those in *Kehoe* and *Edward*, in which the employees chose the certainty of a retirement incentive or worker compensation settlement over continuing to work. *Kehoe*, 568 N.W.2d at 890; *Edward*, 611 N.W.2d at 369.

In *Kehoe*, we acknowledged that an employer can make the option of quitting more attractive by offering a monetary inducement to retire on the one hand and threatening to change circumstances on the other. 568 N.W.2d at 890-91. Nevertheless, we concluded that despite the implied threat of a reduction in hours, the employee retained a choice between remaining employed in uncertain circumstances or accepting a retirement incentive and certainty. *Id.* at 891. A good reason to quit caused by the employer may occur when the employer breaches its employment contract. *See Hayes v. K-Mart Corp.*, 665 N.W.2d 550, 553-54 (Minn. App. 2003), *review denied* (Minn. Sept. 24, 2003). Here, the employer has honored the explicit employment contract that relator had with the state.

**Affirmed.**