STATE OF MINNESOTA
IN COURT OF APPEALS
A08-1660

Phyllis J. Brooks,
Relator,

vs.

Philip Peichel Agency Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

Filed July 14, 2009
Affirmed
Klaphake, Judge

Department of Employment and Economic Development
File No. 20841859-3

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

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

KLAPHAKE, Judge

In this challenge to an unemployment law judge's (ULJ) decision that she quit her employment, relator Phyllis J. Brooks claims that she was discharged from her employment in 2008 as a customer service representative with respondent Phillip Peichel Agency, Inc. (an American Family Insurance agency), without good cause. She also claims that her employer failed to take corrective action when she complained about her working conditions and that the ULJ failed to develop the facts at the evidentiary hearing. We conclude that the ULJ did not err in determining that relator is ineligible to receive benefits because she quit her employment for a reason not attributable to her employer; the employer did not receive adequate notice of any adverse working conditions in order to take corrective action; and the ULJ properly developed the evidentiary record. We therefore affirm.

D E C I S I O N

On review of an unemployment benefits decision, this court 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 and capricious.

Minn. Stat. § 268.105, subd. 7(d) (2008). This court views the ULJ's findings in the light most favorable to the decision and will not disturb findings that are substantially supported by the record. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). This court also defers to the ULJ's credibility determinations and evaluations of conflicting evidence. *Nichols v. Reliant Eng'g & Mfg., Inc.*, 720 N.W.2d 590, 594 (Minn. App. 2006).

An employee who quits because of good reason caused by the employer is eligible to receive unemployment benefits. Minn. Stat. § 268.095, subd. 1(1) (2008). "A good reason caused by the employer" is defined as a reason "directly related to the employment and for which the employer is responsible; . . . adverse to the worker; and . . . [one that] would compel an average, reasonable worker to quit." *Id.*, subd. 3(a) (2008). The question of whether an employee quit employment is a question of fact. *Shanahan v. Dist. Mem'l Hosp.*, 495 N.W.2d 894, 896 (Minn. App. 1993). Whether an employee quit without good reason caused by the employer is a legal question subject to de novo review. *Nichols*, 720 N.W.2d at 594.

Relator claims that her reason for quitting her job was directly related to her employment and caused by her immediate boss, Phillip Peichel. Relator and Peichel did not have a harmonious working relationship. The ULJ found that Peichel had a "harsh management style" that included being particular about relatively minor issues and interrupting relator when she was on the telephone. On April 14, 2008, as relator

attempted to handle a telephone call from a disgruntled client, Peichel inserted himself into the conversation by twice saying to her "too much information," raising his voice the second time. After the call ended, Peichel reiterated that relator had given the client too much information; relator responded that Peichel should not have "yelled" at her. At Peichel's suggestion, relator then left work for the day because she was too upset to continue working. This incident led to Peichel filing a disciplinary report, and during the follow-up meeting, Peichel asked for relator's office key as a security measure. Following the meeting, relator returned to her desk but immediately went back to Peichel and told him she quit, gathered her personal belongings, and left.

While Peichel himself admitted that his conduct was sometimes overbearing and that he micromanaged the office, his conduct was not so serious that an average, reasonable person would have quit under the same conditions. In general, an employee's dissatisfaction with working conditions or a conflict with others at work, including a personality conflict with a supervisor, does not constitute a good reason for quitting. *Trego v. Hennepin County Fam. Day Care Ass'n*, 409 N.W.2d 23, 23-24 (Minn. App. 1987) (ruling "[d]issatisfaction with 'crisis situation' working conditions and the existence of a personality conflict" did not constitute good cause to quit); *Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 14 (Minn. App. 1986) (ruling that "irreconcilable differences with others at work" and frustrating working conditions did not constitute good cause to quit); *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"). The ultimate question is whether the employer's demands were excessive or unreasonable. *Shanahan*, 495 N.W.2d at 897. As the ULJ concluded, while Peichel may have been a difficult manager, relator's working conditions were "not so significant as to provide good cause for quitting."

Relator further claims that her employer failed to take any corrective action when informed of the workplace "harassment." When an employer subjects an employee to "adverse working conditions," the employee must "complain to the employer and give the employer a reasonable opportunity to correct the adverse working conditions" before claiming a good-cause basis to quit. Minn. Stat. § 268.095, subd. 3(c) (2008). Relator's argument fails for several reasons. The specific conduct relator complained of does not amount to "adverse working conditions" within the meaning of the statute, because even if her allegations were true, they were not sufficiently egregious to constitute a good-cause basis to quit. Further, because relator did not complain to the human resources department about Peichel's conduct until the week before she quit her employment, she did not allow her employer sufficient time to correct the adverse conditions. *See Burtman v. Dealers Disc. Supply*, 347 N.W.2d 292, 294 (Minn. App. 1984) (ruling that employee's failure to complain to employer about the adverse condition of employment "forecloses" a finding of good reason caused by the employer), *review denied* (Minn. July 26, 1984).

Relator finally argues that the ULJ erred by failing to develop the record regarding Peichel's pattern of harassment. She contends that the ULJ concentrated his questions on

the period immediately before she quit and elicited testimony to determine merely whether she quit or was fired. Because relator concedes that she was able to offer significant documentary evidence about her work history, including her personal notes. The evidentiary hearing transcript also shows that relator was able to offer other testimony to support her claim; the ULJ even asked her to "say everything that you have on your mind" before others testified. Further, relator conceded that she had quit her employment, and the ULJ only received notice of her claim that she was discharged at the evidentiary hearing. In the order affirming its original decision, the ULJ stated that the evidentiary hearing was "quite prolonged, given the amount of relevant information obtained, and that [relator] had ample time to present her evidence." Finally, the ULJ did not find relator's testimony to be credible, because relator insisted that she was discharged "when the overwhelming weight of the evidence (including previous correspondence from [relator]) showed she had quit." While the duty of the ULJ at an evidentiary hearing is to "ensure that all relevant facts are clearly and fully developed," Minn. Stat. § 268.105, subd. 1(b) (2008), we conclude that the ULJ met that requirement in this case.

Affirmed.