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**STATE OF MINNESOTA
IN COURT OF APPEALS
A09-89**

Connie Kimeu,
Relator,

vs.

Foundation for Health Care Continuums,
Respondent,

Department of Employment
and Economic Development,
Respondent.

**Filed November 10, 2009
Affirmed
Klaphake, Judge**

Department of Employment and Economic Development
File No. 21237453-3

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Considered and decided by Stauber, Presiding Judge; Klaphake, Judge; and Worke, Judge.

UNPUBLISHED OPINION

KLAPHAKE, Judge

Relator Connie Kimeu challenges the decision of the unemployment law judge (ULJ) determining that she was ineligible to receive unemployment benefits because she quit without good reason caused by her employer, respondent Foundation for Health Care Continuums. Relator argues that she did not voluntarily quit, because her separation from employment was caused by her husband's military relocation order. Because the employer was not responsible for causing relator to quit her employment, we affirm.

DECISION

Standards of Review

Whether an employee had good cause to quit is a question of law reviewed de novo by the appellate court. *Munro Holding, LLC v. Cook*, 695 N.W.2d 379, 384 (Minn. App. 2005). Legal conclusions must be supported by sufficient evidence. *Nichols v. Reliant Eng'g & Mfg., Inc.*, 720 N.W.2d 590, 594 (Minn. App. 2006). We review questions of statutory interpretation de novo. *Bukkuri v. Dep't of Employment & Econ. Dev.*, 729 N.W.2d 20, 21 (Minn. App. 2007). The unemployment benefits statute is remedial in nature and is construed liberally in favor of awarding benefits to those unemployed through no fault of their own; ineligibility standards are narrowly interpreted. *Jenkins v. Am. Express Fin. Corp.*, 721 N.W. 2d 286, 289 (Minn. 2006). The appellate court may reverse the decision of the ULJ if, among other grounds, the decision is based on an error of law or is unsupported by substantial evidence. Minn. Stat. § 268.105, subd. 7(d)(4)(5) (2008).

Good Reason Caused by Employer

Generally, a person who voluntarily quits employment is ineligible for unemployment benefits, unless the person quit because of a good reason caused by the employer. Minn. Stat. § 268.095, subd. 1(1) (2008). An employee quits “when the decision to end the employment was, at the time the employment ended, the employee’s.” Minn. Stat. § 268.095, subd. 2(a) (2008). “A good reason caused by the employer” is defined as 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.” Minn. Stat. § 268.095, subd. 3(a) (2008). “The definition of a good reason caused by the employer for quitting employment provided by this subdivision is exclusive and no other definition applies.” *Id.* at subd. 3(g).

The ULJ concluded, both after the hearing and on reconsideration, that relator had quit without good reason caused by the employer. Relator urges this court to reverse the ULJ’s decision because it was not her choice to quit, but rather she was compelled to leave her employment because of her husband’s military orders to transfer to Fort Bliss, Texas.

In interpreting the unemployment benefits statute, we must weigh the remedial nature of the statute against the clear standards set forth in the statute. Relator is asking this court to give more weight to the remedial quality of the statute, based on the purpose of the statute: to assist workers “who are unemployed through no fault of their own.” Minn. Stat. § 268.03, subd. 1(2008). As a practical matter, relator did not want to

separate from her employment; but the employer is not responsible for her husband's transfer to Texas. A "good reason caused by the employer" is one "for which the employer is responsible." Minn. Stat. § 268.095, subd. 3(a)(1). The employer here is not responsible for the relocation of relator's family.

Relator has cited numerous cases and statutes from other jurisdictions, which award unemployment benefits to military spouses compelled to quit their employment. But unemployment benefits are a statutory creation; "it is an elemental canon of statutory construction that where a statute expressly provides a particular remedy or remedies, a court must be chary of reading others into it." *Becker v. Mayo Foundation*, 737 N.W.2d 200, 207 (Minn. 2007) (quotation omitted). The interpretation of the laws of other jurisdictions provides very little guidance for interpreting laws peculiar to Minnesota.

In 2009, the Legislature amended chapter 268 to "conform to the requirements of the American Recovery and Reinvestment Act" (the federal stimulus plan) by amending Minn. Stat. § 268.095, subd. 1, to exclude from the definition of "quit," an employee who leaves employment "in order to relocate to accompany a spouse whose job location changed making it impractical for the applicant to commute." 2009 Minn. Laws ch. 15, §§ 8 at 38, 11 at 38. Section 8, amending the definition of "quit" is "effective for determinations issued on or after August 2, 2009." 2009 Minn. Laws ch. 15, § 8 at 38. The Legislature passed this bill so that "Minnesota's unemployment insurance trust fund [will receive] \$130,063,620 in incentive payments." 2009 Minn. Laws ch. 15, § 11, at 38.

This amendment suggests that the former law, which was in effect when relator left her employment, did not cover a situation where an employee quits in order to follow a relocating spouse. *See Behr v. Am. Family Mut. Ins. Co.*, 638 N.W.2d 469, 478 (Minn. App. 2002) (stating that amendment of a statute is presumed to intend to effect a change in the law), *review denied* (Minn. Apr. 23, 2002). The provision of federal funds also supports this interpretation. Each employer pays taxes to the unemployment fund based on an assigned tax rate computed, at least in part, on the employer's experience rating. Minn. Stat. § 268.051, subd. 2 (2008). An employer's experience rating is increased to the employer's detriment based on the amount of benefits paid out. Minn. Stat. § 268.047, subd. 1 (2008). The funds paid out under the federal stimulus plan provide for additional funds for expanded benefits without increasing the tax burden on employers.

The ULJ's decision determining that relator is ineligible for benefits is supported by substantial evidence and is not an error of law.

Affirmed.