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**STATE OF MINNESOTA
IN COURT OF APPEALS
A09-771**

Kaelena McElles,
Relator,

vs.

Wal-Mart Associates Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed January 26, 2010
Affirmed
Bjorkman, Judge**

Department of Employment and Economic Development
File No. 21601067-3

Kaelena McElles, Springfield, Tennessee (pro se relator)

Wal-Mart Associates, Inc., c/o TALX UCM Servs. Inc., St. Louis, Missouri (respondent)

Lee B. Nelson, Amy R. Lawler, Minnesota Department of Employment and Economic Development, St. Paul, Minnesota (for respondent Department of Employment and Economic Development)

Considered and decided by Bjorkman, Presiding Judge; Klaphake, Judge; and Halbrooks, Judge.

UNPUBLISHED OPINION

BJORKMAN, Judge

Relator challenges the determination of an unemployment-law judge (ULJ) that she is ineligible to receive unemployment benefits because she quit her employment without good reason caused by her employer. Because we conclude that the ULJ's findings are supported by substantial evidence and the hearing was fair, we affirm.

FACTS

Relator Kaelena McElles was employed at a Wal-Mart store in Wadena from January 15 until December 8, 2008. McElles acknowledged that her tenure at Wal-Mart was not positive and described her relationship with her supervisors as "rocky." On her last day of employment, McElles was called into a meeting with the store manager and the assistant store manager. The manager questioned McElles about an incident that occurred in October, when McElles's daughter contacted the store about returning ammunition and alleged that the Wal-Mart employee was rude to her. The two managers confronted McElles about reports that she had bragged about getting the employee in trouble over the call. McElles admitted that her daughter had called, but denied the allegations of bragging. The store manager told her that she would be given a written "coaching" for failing to be respectful toward other employees. McElles asked if she was being fired. The store manager responded that she was not being fired.

Both managers testified that relator then threw her keys and badge down on the desk. McElles stated that she was merely playing with her keys. The assistant manager asked McElles if she was quitting, and McElles did not respond. The manager asked if

she had any company property in her locker. Without protest, McElles stated that she had a company discount card in her locker, and she accompanied the managers to clean out the contents of her locker. McElles did not ask again if she was being fired and did not take any action to suggest that she was doing anything other than quitting her employment. McElles stated that she failed to speak out because she was “in shock.”

McElles established a benefit account with the Minnesota Department of Employment and Economic Development (DEED). A DEED adjudicator determined that McElles was ineligible for benefits because she quit her employment for other than good reason caused by her employer. McElles appealed that determination, and the ULJ conducted a de novo hearing. The ULJ determined that McElles quit her employment without good reason caused by her employer and was not eligible for benefits. McElles requested reconsideration, claiming that the hearing was unfair. The ULJ affirmed her initial decision. This certiorari appeal follows.

D E C I S I O N

This court may remand, reverse, or modify the decision of a ULJ if the substantial rights of the relator may have been prejudiced because the findings, conclusion, or decision are, among other things, made upon unlawful procedure or are unsupported by substantial evidence. Minn. Stat. § 268.105, subd. 7(d)(3), (5) (2008). We review findings of fact in the light most favorable to the ULJ’s decision, give deference to the ULJ’s credibility determinations, and will not disturb the ULJ’s factual findings if they are supported by substantial evidence. *Skarhus v. Davanni’s Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006).

An employee who quits without good reason caused by her employer is disqualified from receiving unemployment benefits. Minn. Stat. § 268.095, subd. 1(1) (2008). Whether an employee quit is a question of fact. *Skarhus*, 721 N.W.2d at 344; *Hayes v. K-Mart Corp.*, 665 N.W.2d 550, 552 (Minn. App. 2003), *review denied* (Minn. Sept. 24, 2003). But whether good cause justified an employee quitting is a question of law, which we review de novo. *Munro Holding, LLC v. Cook*, 695 N.W.2d 379, 384 (Minn. App. 2005); *Hayes*, 665 N.W.2d at 552. Good cause is defined as a reason directly related to the employment for which the employer is responsible, that is adverse to the worker, and that would compel an average, reasonable worker to quit. Minn. Stat. § 268.095, subd. 3(a).

McElles alleges that the ULJ erred in determining that she quit her employment without a good reason caused by Wal-Mart. We first note that the ULJ relied on McElles's own statements in concluding that she quit her employment. Thus, the focal point of this appeal is whether the ULJ correctly determined that Wal-Mart's actions would not have compelled a reasonable employee to quit.

The evidence shows that McElles had a stormy relationship with her supervisors. McElles testified that she was repeatedly summoned to her supervisor's office and was called a liar and a troublemaker. The ULJ determined that "a poor working relationship with a supervisor does not constitute a good reason to quit caused by the employer." We agree. This court previously held that even irreconcilable differences with others at work do not constitute a good reason to quit caused by the employer. *Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 14 (Minn. App. 1986). On this record, we conclude that the

ULJ did not err in determining that McElles's situation would not compel an average, reasonable worker to quit.

McElles also challenges the hearing process, alleging that the ULJ did not allow her to present evidence and was biased. An eligibility hearing is intended to be an evidence gathering inquiry, and must be conducted in a manner that "protects the parties' rights to a fair hearing." *Ywsyf v. Teleplan Wireless Servs., Inc.*, 726 N.W.2d 525, 529 (Minn. App. 2007). The hearing must provide an opportunity for the parties to cross-examine witnesses, and permit rebuttal testimony, but a ULJ "may exclude any evidence that is irrelevant, immaterial, unreliable, or unduly repetitious." *Id.* at 529-30 (citing Minn. R. 3310.2921 and Minn. R. 3310.2922).

The ULJ allowed McElles to submit documents, question witnesses, and make statements in support of her position. The ULJ did exclude documents containing McElles's job description and attendance record, but those exhibits had no bearing on the disputed fact issue—whether or not McElles quit or was discharged from Wal-Mart. Likewise, the ULJ limited McElles's questioning so that it focused on the issue at hand. McElles has not demonstrated that any of the excluded evidence was relevant.

McElles's assertion that the ULJ was biased is also without merit. She does not cite any evidentiary support for her claim of bias, and our review of the record reveals no basis for this claim. Absent any showing of bias or that the ULJ conducted the hearing in a manner that prejudiced McElles's substantial rights, we affirm. *See* Minn. Stat. § 268.105, subd. 7(d) (grounds for reversal of ULJ decisions).

Affirmed.