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**STATE OF MINNESOTA
IN COURT OF APPEALS
A09-968**

Blair Mutcher,
Relator,

vs.

Wyoming Machine Inc.,
Respondent,

Department of Employment and
Economic Development,
Respondent.

**Filed March 9, 2010
Affirmed
Hudson, Judge**

Department of Employment and
Economic Development
File No. 21985591-3

Blair C. Mutcher, North Branch, Minnesota (pro se relator)

Wyoming Machine Inc., Stacy, Minnesota (respondent employer)

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

Considered and decided by Hudson, Presiding Judge; Connolly, Judge; and
Crippen, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

HUDSON, Judge

On appeal from a denial of unemployment benefits, relator argues that he is entitled to benefits because he quit with good reason caused by his employer, and because he suffered from a serious illness which made it medically necessary for him to quit. Relator also argues that the hearing before the unemployment law judge (ULJ) was conducted unfairly. Because relator is not eligible for unemployment benefits and the hearing was conducted fairly, we affirm.

FACTS

Relator Blair Mutcher was employed full-time as a material handler for respondent-employer Wyoming Machine Inc. from January 7, 2009, through February 10, 2009. As a material handler, relator received incoming sheet metal, used a forklift to move it to the production line, and operated a shear. Relator received forklift training, although he was already forklift certified, and learned how to operate the shear in a limited capacity. Relator testified that he felt his training was inadequate and that he needed more one-on-one training and direction. Specifically, relator testified that he wanted more training on receiving materials and using the computer system. Relator testified that he received three days of one-on-one training. Relator complained that, after three days, his trainer was moved to another department. Relator was told that he could ask three of his direct coworkers for help. This addressed some of his problems with the shear.

Relator testified that he wanted to know exactly what he was doing at all times and that asking other employees how to do things after his direct training ended was problematic for him. Although relator was not criticized by his employer for any performance issues, he testified that he was upset with himself that he made several avoidable mistakes.

Relator noted that he was asked to stay late one evening to receive some items and did not know how to do it alone, but he was able to complete the task by asking a coworker for help. Relator received a letter instructing him not to stay late without overtime authorization. The letter was not a reprimand and no penalty was involved.

As the employment continued, relator began having panic attacks, anxiety attacks, difficulty sleeping, and depression. Relator contacted Minnesota Workforce Center employees, who had arranged his job placement, and asked them to inform respondent-employer that he wanted more one-on-one training, but he did not complain to respondent-employer beyond his initial complaint that his trainer had been moved. On February 9, 2009, relator decided that he was not getting the training he desired and that it was too difficult for him to return to work. He submitted a letter of resignation and spoke to a manager on February 10, 2009. The manager asked relator to come back to work the following Monday so that relator could meet with and work more closely with some other employees. Relator told the manager that he would think about it but decided that he could not return because he would not get the type of training he desired. After he

quit, relator was diagnosed with Asperger's syndrome.¹ Neither relator nor respondent-employer knew of this condition until after relator quit.

After a hearing, the unemployment law judge (ULJ) concluded that relator was ineligible for unemployment benefits because he quit without good reason caused by respondent-employer. The ULJ found that relator did not show "that his dissatisfaction with his training would have compelled the average reasonable employee to quit or that he gave [respondent-employer] an opportunity to address his concerns before quitting." The ULJ also determined that because relator did not know about his medical condition until after he quit, and did not inform respondent-employer of his medical condition before quitting, he did not fall within the medical exception to ineligibility. Relator filed a request for reconsideration, and the ULJ affirmed the decision. This certiorari appeal follows.

D E C I S I O N

This court may affirm the decision of the ULJ, remand for further proceedings, or reverse or modify the decision if relator's substantial rights may have been prejudiced because the decision violated the constitution, exceeded authority, was made upon unlawful procedure, was affected by error of law, was unsupported by substantial evidence, or was arbitrary or capricious. Minn. Stat. § 268.105, subd. 7(d) (2008). The ULJ's findings are viewed in a light most favorable to the decision. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). "Credibility determinations are the exclusive province of the ULJ and will not be disturbed on appeal." *Id.* at 345.

¹ Asperger's syndrome is a form of autism.

Whether an employee had good reason to quit is a question of law, reviewed de novo. *Munro Holding, LLC v. Cook*, 695 N.W.2d 379, 384 (Minn. App. 2005).

I

An employee who quits his or her employment is ineligible to receive unemployment benefits unless he or she falls within a statutory exception to ineligibility. Minn. Stat. § 268.095, subd. 1 (2008). An employee may still receive benefits if he or she “quit the employment because of a good reason caused by the employer.” *Id.*, subd. 1(1). Good reason to quit caused by the employer is defined as an act by the employer “(1) that is directly related to the employment for which that 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.” *Id.*, subd. 3(a) (2008). The employee must complain to the employer about adverse work conditions 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) (2008).

Here, relator argues that the lack of a lengthy period of one-on-one training was good reason to quit caused by the employer. But an employee does not have good reason to quit caused by the employer simply because the employee is dissatisfied or frustrated with working conditions. *Trego v. Hennepin County Family Day Care Ass’n*, 409 N.W.2d 23, 26–27 (Minn. App. 1987). Relator agreed that he received some one-on-one training and that he was generally able to perform his job. He was able to ask questions of his coworkers, but he testified that it was hard for him to communicate with persons

who are not working directly with him on the job. Relator acknowledged that his desire for more training stemmed from his undiagnosed Asperger's syndrome. Though relator wanted more one-on-one training and was not satisfied with the training he received, the evidence supports the conclusion that the working conditions were not so severe as to compel an average, reasonable worker to quit.

Relator also argues that he is entitled to benefits because he was forced to quit due to his Asperger's syndrome. An employee may also receive benefits if he or she quit due to a serious illness or injury which "made it medically necessary that the employee quit," and the employee informed the employer of that medical problem, requested accommodation, and no reasonable accommodation was made available. Minn. Stat. § 268.095, subd. 1(7). But no accommodation was ever requested by relator, and respondent-employer was not made aware of relator's medical condition until after relator had quit. Therefore, relator does not qualify for this exception.

Finally, relator appears to argue that he was enrolled in a reemployment assistance training program through a dislocated worker program and is therefore eligible for benefits. But there is no evidence in the record to support that claim, and the issue was not briefed by relator. Therefore this court need not address it. *See State, Dep't. of Labor & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (declining to address issue not adequately briefed); *Schoepke v. Alexander Smith & Sons Carpet Co.*, 290 Minn. 518, 519–20, 187 N.W.2d 133, 135 (1971) (holding issues assigned as error waived when unsupported by argument or authority, unless error is obvious).

In any case, relator was not enrolled in “reemployment assistance training.” Reemployment assistance training includes “vocational . . . or short term academic training vocationally directed to an occupation or skill for which there are reasonable employment opportunities available to the applicant.” Minn. Stat. § 268.035, subd. 21a(3) (2008). The training program must be considered to be full-time by the provider, and the applicant must be making satisfactory progress. *Id.*, subd. 21a(4), (5) (2008). Relator notes that he was enrolled in the dislocated worker program. This is not the type of training covered by the above exception.

II

Relator also argues that the hearing conducted by the ULJ was unfair. He argues that the ULJ could not have adequately considered all the evidence because the decision was made shortly after the hearing and because relator believed the ULJ was “rushed” and may not have heard everything clearly. The ULJ has the duty to “ensure that all relevant facts are clearly and fully developed” but “has discretion regarding the method by which the evidentiary hearing is conducted.” Minn. Stat. § 268.105, subd. 1(b) (2008). Here, the ULJ took testimony from relator and his wife, as well as two witnesses for the employer. The ULJ gave relator an opportunity to testify freely, present evidence, ask questions, and give a closing statement. Based on our review of the record, the hearing in this case was conducted fairly.

Affirmed.