STATE OF MINNESOTA
IN COURT OF APPEALS
A09-1078

Shane Signorelli,
Relator,

vs.

At Sara's Table Chester Creek Cafe LLC,
Respondent,

Department of Employment and Economic Development,
Respondent.

Filed May 4, 2010
Affirmed
Connolly, Judge

Department of Employment and Economic Development
File No. 22018442-3

Richard D. Snyder, Joseph J. Cassioppi, Fredrikson & Byron, P.A., Minneapolis, Minnesota (for relator)

At Sara's Table Chester Creek Cafe LLC, Duluth, Minnesota (respondent)

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

Considered and decided by Connolly, Presiding Judge; Hudson, Judge; and Johnson, Judge.

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

CONNOLLY, Judge

Relator challenges the decision of the unemployment-law judge (ULJ) that relator was ineligible to receive unemployment benefits because he quit his employment without good reason caused by his employer. Because there is substantial evidence in the record to support the ULJ's decision, we affirm.

FACTS

Relator Shane Signorelli was employed by respondent At Sara's Table Chester Creek Cafe (restaurant), located in Duluth from April 2005 until February 2009. Relator worked as a member of the kitchen staff. On February 13, relator quit his employment with the restaurant. Relator subsequently applied for unemployment benefits. On February 23, relator was determined to be ineligible for unemployment benefits by respondent Department of Employment and Economic Development (DEED).

Relator appealed this determination. Following an evidentiary hearing on March 17, a ULJ affirmed that determination. At the hearing, relator testified on his own behalf. Additionally, relator offered the testimony of two former colleagues from the restaurant, both of whom were still employed there at the time of the hearing. Additionally, two of the owners and the manager of the restaurant were present at the hearing and testified on behalf of the employer.

In May 2007, the night kitchen manager left the restaurant for other employment. As a result of the night manager's departure, relator was assigned more responsibilities. These responsibilities included supply and food ordering, menu writing, training new

kitchen staff, and preparing servers for service. Relator was also given an increase in his hourly wage. This hourly wage was the same wage he continued to make until he quit. Relator also began working an average of 40 hours per week. The nature of the shift in responsibilities is disputed by the parties, and was the primary focus of the evidentiary hearing.

Relator believed that he had been de facto promoted to the position of manager. Relator also admitted, however, that he was never formally informed of such a promotion. Relator was never told that his increased responsibilities were being permanently assigned to him. Nevertheless, relator assumed he had been promoted based upon the increased responsibilities and pay. An employee of the restaurant testified that he assumed relator had been promoted. However, one of the owners testified that she specifically told relator that he was still the peer of the other cooks.

Relator claims that he was demoted in February of 2008 when an employee named "Bruce"[1] who had previously worked only once or twice per week, began working full time. Bruce had worked at the restaurant since its opening in 2003. Relator began working at the restaurant two years later, in 2005. Unlike relator, Bruce had formal culinary training. One of the owners also testified that Bruce had a better sense of food and taste than relator. Bruce began doing the tasks to which relator had been previously assigned, and he became relator's supervisor. Relator also testified that he was more frequently assigned to the grill station in the kitchen. Relator felt this was a demotion

[1] "Bruce" was not present at the evidentiary hearing, and the ULJ only referred to him by his first name.

because generally the less experienced cooks were assigned to the grill station. Relator testified that he had worked the sauté station every Friday for more than two years. It is clear from the testimony of relator and others that relator and Bruce did not like each other.

On Friday, February 13, 2009, relator was assigned to the grill station for that evening's shift. Relator testified that he did not know, nor did he ask, whether this assignment was permanent. Additionally, Bruce arrived late to work, an act which relator perceived was a purposeful show of disrespect towards him. Relator returned his keys to one of the owners, and left in the middle of his shift.

In his application for unemployment benefits, relator indicated that he had quit because of a job demotion which occurred the day he quit. Relator stated on his application that he did not talk to his employer about his perceived demotion because the atmosphere was not conducive to communication since the owners had been drinking alcohol at the time. Relator had no firsthand knowledge that the owners had been drinking.

The ULJ found that relator was frustrated and felt that he was not respected by the owners of the restaurant. The ULJ stated that while there existed a communication problem in the restaurant, "irreconcilable differences with a supervisor, or mere frustration or dissatisfaction with the work environment do not constitute good reasons, caused by the employer for quitting." The ULJ determined that because relator had not quit for a good reason caused by his employer, he was not entitled to unemployment benefits.

D E C I S I O N

I. The ULJ did not err when she determined relator was not eligible for unemployment benefits because he did not have a good reason to quit caused by his employer.

It is undisputed that relator quit his employment. The relevant question, then, is whether he quit for good reason caused by his employer. *Rootes v. Wal-Mart Assocs., Inc.*, 669 N.W.2d 416, 418 (Minn. App. 2003). The question of whether an employee had good cause to quit is a question of law. *Holbrook v. Minn. Museum of Art*, 405 N.W.2d 537, 538 (Minn. App. 1987), *review denied* (Minn. July 15, 1987). Accordingly, we will review the question of whether an employee had good cause to quit de novo. *Johnson v. Walch & Walch, Inc.*, 696 N.W.2d 799, 800 (Minn. App. 2005), *review denied* (Minn. July 19, 2005). We review the factual findings of a ULJ in the light most favorable to the decision. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). We will defer to the ULJ's credibility determinations and evaluations of conflicting evidence and will not disturb findings that are substantially supported by the record. *Id.; Nichols v. Reliant Eng'g & Mfg., Inc.*, 720 N.W.2d 590, 594 (Minn. App. 2006).

A good reason to quit caused by an employer directly relates to the employment, is something for which the employer is responsible, is adverse to the worker, and "would compel an average, reasonable worker to quit and become unemployed rather than remain[] in the employment." Minn. Stat. § 268.095, subd. 3(a) (2008). "The proper test for 'good cause attributable to the employer' is whether the employee's reason for quitting was compelling, real and not imaginary, substantial and not trifling, reasonable

and not whimsical and capricious." *Holbrook*, 405 N.W.2d at 538 (quoting *Kratochwill v. Los Primos*, 353 N.W.2d. 205, 207 (Minn. App. 1984)).

An employee has good reason to quit caused by the employer when the employer alters the terms and conditions of employment in a material and adverse manner. *Rootes*, 669 N.W.2d at 419. Relator contends that he quit because the terms and conditions of his employment were altered in a material and adverse manner. The record supports the ULJ's determination that relator was never promoted and therefore not subsequently demoted. Relator voluntarily reduced his hours, and eventually quit his employment because of a personal conflict with his supervisor—not because of any material alteration in his work situation.

Relator relies upon cases such as *Holbrook* in support of his position. An employee has the right to reject a position "which requires substantially less skill than she possesses." *Holbrook*, 405 N.W.2d at 539 (quotation omitted). In *Holbrook*, this court reversed a ULJ's decision that the employee did not have good reason to quit. *Id*. at 540. When Holbrook was initially hired, she was doing primarily clerical work, but had been explicitly promised by the employer that research would be an important part of her job. *Id*. at 538. Holbrook was later promoted to the position of assistant curator of a museum. *Id*. At the time Holbrook was hired, she had a Bachelor of Arts degree, and had completed coursework for a Masters degree. *Id*. When the museum offered her two part-time clerical jobs in exchange for her assistant curator position, Holbrook refused. *Id*. At the time of her departure, Holbrook had been spending one-third of her time performing clerical duties. *Id.* We determined that Holbrook had good reason to quit her

employment, despite the fact that she would experience no decrease in pay. *Id*. at 539-40. We stated that "[t]he fact that Holbrook would not have received a reduction in pay by accepting the clerical positions is not determinative." *Id*. at 539.

To support his assertion that he was demoted, relator notes that Bruce took over many of the duties relator had been performing, and relator was no longer regularly working the sauté station. Relator also asserts that his hours were cut back as part of his "demotion." In fact, relator testified that he requested that his hours be reduced so that he could avoid working with Bruce.

Relator's reliance on *Holbrook* is misplaced. The evidence was sufficient to support the ULJ's determination that being moved from the sauté side, to the grill side of the kitchen was not a demotion. While relator testified that, in general, the kitchen manager would work the sauté station, no evidence was presented to suggest that the grill side of the kitchen required a disparate level of skill.

Relator also testified that he suffered verbal abuse which caused him to quit. The ULJ determined that relator was frustrated and dissatisfied with the working environment, but that the situation was a matter of personal differences. We have consistently concluded that irreconcilable differences with an employer do not constitute good cause to quit. *Trego v. Hennepin County Family Day Care Ass'n*, 409 N.W.2d 23, 26 (Minn. App. 1987) (citing *Bongiovanni v. Vanlor Investments*, 370 N.W.2d 697, 699 (Minn. App. 1985)).

While relator may have had valid personal reasons for ceasing his employment, valid personal reasons do not necessarily rise to the level required by Minn. Stat.

§ 268.095, subd. 3(a)(3). Relator did not have reasons for quitting that would compel an average reasonable worker to quit and become unemployed.

II. The conclusions of the ULJ are substantially supported by the record.

According to Minn. Stat. § 268.105, subd. 7(d)(5) (2008), we may reverse or modify the ULJ's findings or inferences if they are "unsupported by substantial evidence in view of the entire record as submitted." We will not disturb the ULJ's factual findings when the evidence substantially sustains them. *Peterson v. Nw. Airlines Inc.*, 753 N.W.2d 771, 774 (Minn. App. 2008), *review denied* (Minn. Oct. 1, 2008).

Relator argues that the ULJ's finding that no promotion actually occurred is not supported by the record. In fact, the ULJ noted in her findings that each of the restaurant's witnesses testified that relator had never been promoted, and had only temporarily taken over some extra responsibilities. The ULJ also found, based upon testimony from the restaurant's witnesses, that relator chose to reduce his hours in order to avoid working with Bruce. Relator also presented evidence to support his contention that he had been promoted and subsequently demoted. However, "[c]redibility determinations are the exclusive province of the ULJ and will not be disturbed on appeal." *Skarhus*, 721 N.W.2d at 345. We will defer to the ability of the fact-finder to weigh conflicting evidence. *Johnson*, 696 N.W.2d at 800. The ULJ weighed the evidence presented and determined that the testimony of the restaurant's witnesses supported the conclusion that relator had never been promoted.

Additionally, relator asserts that the ULJ incorrectly concluded that he had not complained to his employer about his working conditions—something relator was

required to do. Minn. Stat. § 268.095, subd. 3(c) (2008) reads, "If an applicant was subjected to adverse working conditions by the employer, the applicant must complain to the employer 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." The record demonstrates, however, that while relator did complain to his employer several times, these complaints concerned his poor working relationship with Bruce, not his working conditions.

Because the record substantially supports the ULJ's findings that relator was never promoted and that relator quit because of a personality conflict and not based upon adverse working conditions caused by his employer, the ULJ did not err in finding that relator quit without a good reason caused by his employer and was ineligible for unemployment benefits in accordance with Minn. Stat. § 268.095, subd. 3(a).

Affirmed.