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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A10-1113**

Noel Wacker,  
Relator,

vs.

J & E Express,  
Respondent,

Department of Employment and Economic Development,  
Respondent.

**Filed May 23, 2011  
Affirmed  
Peterson, Judge**

Department of Employment and Economic Development  
File No. 24673758-3

Noel Wacker, St. Cloud, Minnesota (pro se relator)

J & E Express, Detroit Lakes, Minnesota (respondent)

Lee B. Nelson, Christina Altavilla, Department of Employment and Economic  
Development, St. Paul, Minnesota (for respondent department)

Considered and decided by Toussaint, Presiding Judge; Peterson, Judge; and  
Hudson, Judge.

## **UNPUBLISHED OPINION**

**PETERSON**, Judge

Relator challenges the decision of an unemployment-law judge (ULJ) that he is ineligible to receive unemployment benefits because he voluntarily quit his employment without good reason caused by the employer. We affirm.

### **FACTS**

Relator Noel Wacker worked as an over-the-road truck driver for respondent J & E Express, from January 25, 2010, through February 4, 2010. Relator received his routes from Duane Lashinski, the owner of D & D Transfer, but he was paid by Jeanette Barkowitz, the owner of J & E Express.

While on the road on February 4, 2010, relator learned that his mother-in-law had passed away. Relator called Lashinski and told him that he had a death in the family and wanted to fly home. Lashinski instructed relator to finish out his round because he would be home by Saturday and there was nothing he could do for his wife now. Later that day, relator called Barkowitz and told her that he was leaving the truck in Ohio and flying home for the funeral. Relator told Barkowitz that he would return later and get the truck at his own expense.

J & E unsuccessfully attempted to contact relator several times after he returned home. On February 8, 2010, relator's wife called J & E on relator's behalf and stated that relator was not coming back to work for the company and that he wanted his belongings returned. Barkowitz told relator's wife that relator should take some more time to think about it and that relator should call her about his decision. Relator never contacted J & E.

A termination letter, dated February 10, 2010, was placed in relator's personal vehicle, which was still parked on company property. On February 12, 2010, relator sent a friend to pick up his vehicle and learned that J & E no longer considered him an employee.

Relator filed a claim for unemployment benefits with respondent Minnesota Department of Employment and Economic Development, and a department adjudicator determined that he was ineligible for benefits. Relator appealed to a ULJ. Following an evidentiary hearing, the ULJ determined that relator voluntarily quit his employment without a good reason caused by his employer and, therefore, was ineligible to receive unemployment benefits. Relator filed a request for reconsideration, and the ULJ issued an order affirming the initial decision. This certiorari appeal followed.

### **D E C I S I O N**

This court reviews a ULJ's decision denying benefits to determine whether the findings, inferences, conclusions of law, or decision are, among other things, affected by an error of law or unsupported by substantial evidence in the record. Minn. Stat. § 268.105, subd. 7(d)(4)-(5) (2008). We view the ULJ's findings of fact in the light most favorable to the decision and defer to the ULJ's credibility determinations, and we will not disturb factual findings if they are supported by substantial evidence. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006).

Relator disputes the ULJ's finding that he quit his employment. "A quit from employment occurs when the decision to end the employment was, at the time the employment ended, the employee's." Minn. Stat. § 268.095, subd. 2(a) (Supp. 2009).

“A discharge from employment occurs when any words or actions by an employer would lead a reasonable employee to believe that the employer will no longer allow the employee to work for the employer in any capacity.” Minn. Stat. § 268.095, subd. 5(a) (2008). “Whether an employee has been discharged or voluntarily quit is a question of fact.” *Nichols v. Reliant Eng’g & Mfg., Inc.*, 720 N.W.2d 590, 594 (Minn. App. 2006) (quotation omitted).

Substantial evidence supports the ULJ’s finding that relator “made the decision to end the employment at the time employment ended.” At the evidentiary hearing, J & E’s representatives testified that relator’s wife called and said that relator was quitting his job and that they never heard from relator after he went home on February 4. Relator testified that he intended to return to work after the funeral, but he admitted that he failed to contact J & E after February 4. Relator also testified that he was not aware that his wife called J & E and said that he was quitting his employment. But the ULJ did not credit this testimony. The ULJ acknowledged relator’s testimony but found “it unlikely that, as [relator] testified, his wife called on February 8, 2010 to tell J & E that he quit but he had no idea that she had told them that he quit.” The ULJ found that it was “more likely that [relator] asked his wife to resign on his behalf on February 8, 2010.” This court must defer to the ULJ’s inferences and credibility determinations, and we conclude that the ULJ’s finding that relator “quit employment at J & E on February 8, 2010” is supported by substantial evidence.

Relator also contends that “[a]n employer can not discuss or send emails to an employee’s family member, whether it’s a wife, sister, daughter or parent without the

employee's knowledge if not deemed an emergency.” But relator makes no argument explaining how this purported “invasion of privacy” impacts this court’s review of the ULJ’s determination that relator quit his employment. This court generally declines to reach issues in the absence of adequate briefing. *See State, Dep’t of Labor & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (declining to address an issue absent adequate briefing). Because relator cites no legal authority and provides no analysis, we will not address this argument.

In addition, relator’s appendix includes a notarized statement signed by his wife that is being offered for the first time on appeal. Materials that were not presented during the evidentiary hearing or considered by the ULJ are not within this court’s scope of review. *Imprint Techs. Inc. v. Comm’r of Econ. Sec.*, 535 N.W.2d 372, 378 (Minn. App. 1995). Because this evidence was not presented to the ULJ, we will not consider it on appeal. *McNeilly v. Dep’t of Emp’t & Econ. Dev.*, 778 N.W.2d 707, 709 n.1 (Minn. App. 2010).

**Affirmed.**