

*This opinion will be unpublished and  
may not be cited except as provided by  
Minn. Stat. § 480A.08, subd. 3 (2006).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A07-2142**

Joseph J. Hodge,  
Relator,

vs.

Baldwin Supply Co.,  
Respondent,

Department of Employment and Economic Development,  
Respondent.

**Filed October 7, 2008  
Affirmed  
Larkin, Judge**

Department of Employment and Economic Development  
File No. 11704 07

Joseph J. Hodge, 2023 East 37th Street, Hibbing, MN 55746 (pro se relator)

Baldwin Supply Company, 6011 11th Avenue South, Minneapolis, MN 55415-1712  
(respondent)

Lee B. Nelson, Katrina I. Gulstad, Minnesota Department of Employment and Economic  
Development, E200 First National Bank Building, 332 Minnesota Street, St. Paul, MN  
55101-1351 (for respondent department)

Considered and decided by Johnson, Presiding Judge; Ross, Judge; and Larkin,  
Judge.

## UNPUBLISHED OPINION

**LARKIN**, Judge

Relator challenges the unemployment-law judge's decision that relator was disqualified from receiving unemployment benefits as of the week of his intended quit date because he did not quit his employment for good reason caused by his employer. We affirm.

### FACTS

Relator Joseph J. Hodge was employed as a sales representative by respondent Baldwin Supply Co., from January 13, 2003 until June 29, 2007. From March 2007 through the end of May 2007, relator was on medical leave. Upon returning from medical leave, relator resumed work with his previous clients, sharing his job responsibilities with two coworkers. The two coworkers had been assigned to service relator's clients while relator was on leave and to assist relator as he transitioned back to his job responsibilities. Relator attempted to meet with those coworkers to find out what occurred during relator's absence, but the coworkers did not respond to relator's efforts to schedule a meeting.

On June 28, 2007, relator paid a sales call to his largest client. While at the client's place of business, relator heard rumors from several of the client's employees that his territory was to be split between relator and other salespeople. Relator contacted another employee at his company and asked him about the rumors. At the hearing, relator testified that his coworker "blew up" during the phone call and that "[h]e started using a lot of profanity, swearing at me, using the F word . . . ."

Relator also contacted Ronald Herem, a vice-president with Baldwin Supply Co. Relator did not recall if he said anything to Herem about the verbal confrontation with his coworker. Relator testified that he did not believe that Herem was aware that relator was upset because other salesmen had been visiting his clients. During the phone call, Herem informed relator that Baldwin Supply Co. had no intention of splitting relator's territory. Relator informed Herem that he intended to quit and gave two-weeks' notice. Herem accepted relator's resignation. The next day, Herem sent relator a letter informing relator that his resignation was accepted, effective immediately.

Relator filed for unemployment benefits with the Minnesota Department of Employment and Economic Development (the department). The department determined that relator was not disqualified from receiving benefits from the day he received the letter from Herem informing him his resignation would be effective immediately until the Saturday of the last full week that relator had intended to be employed. The department also determined that relator was disqualified from receiving benefits from the Sunday beginning the week he intended to quit until such time as he found new employment.

Relator challenged this determination and requested a hearing before an unemployment-law judge (ULJ). Following a hearing, the ULJ entered a decision consistent with the determination made by the department that relator was "not disqualified from the payment of unemployment benefits before the Sunday of the week of the intended date of quitting," but that relator was disqualified thereafter. Relator requested reconsideration. The ULJ affirmed its order. This certiorari appeal follows.

## DECISION

Relator challenges the ULJ's determination that relator failed to show that he quit his employment for good reason caused by his employer and, as a result, he is disqualified from receiving unemployment benefits after the Sunday of the week of his intended quit date.

The standard of review is set forth in Minn. Stat. § 268.105, subd. 7(d) (2006), which provides:

The Minnesota Court of Appeals may affirm the decision of the unemployment law judge or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because the findings, inferences, conclusion, or decision are:

- (1) in violation of constitutional provisions;
- (2) in excess of the statutory authority or jurisdiction of the department;
- (3) made upon unlawful procedure;
- (4) affected by other error of law;
- (5) unsupported by substantial evidence in view of the entire record as submitted; or
- (6) arbitrary or capricious.

An appellate court will review factual determinations in the light most favorable to the decision. *Lolling v. Midwest Patrol*, 545 N.W.2d 372, 377 (Minn. 1996). The factual findings can be overturned if there is insufficient evidence in the record to support them. *Id.* "Whether an employee voluntarily quit is a question of fact for the [decision maker]." *Hayes v. K-Mart Corp.*, 665 N.W.2d 550, 552 (Minn. App. 2003), *review denied* (Minn. Sept. 24, 2003).

An employee who voluntarily quits employment is disqualified from receiving unemployment benefits unless the employee quit for a good reason caused by the employer or another statutory exception applies. Minn. Stat. § 268.095, subd. 1 (2006). Good reason is defined by statute 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.” *Id.*, subd. 3(a). The statute also provides, “[i]f 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.” *Id.*, subd. 3(c).

Whether any reason for quitting constitutes a good reason caused by the employer as defined under the statute is a question of law, which this court reviews de novo. *Munro Holding, LLC v. Cook*, 695 N.W.2d 379, 384 (Minn. App. 2005).

There is substantial evidence in the record to support the ULJ’s findings that relator quit his employment. Relator testified that after the confrontation with his coworker, he contacted Herem and informed Herem of his intent to give his two-weeks’ notice to quit his employment effective July 12, 2007, and Herem’s testimony corroborates relator’s account. This evidence is sufficient to support the ULJ’s finding that relator intended to quit his employment.

Relator argues that the abusive language used by his coworker during their phone call on June 28, 2007, and the failure of his fellow salespeople to schedule a meeting to

aid relator with his transition back to the workplace gave him good cause to quit his employment. But there is no indication in the record that Herem, or any other supervisor at Baldwin Supply Co., was aware of relator's concerns. Relator testified that he did not mention his confrontation with his coworker to Herem during their conversation and that he did not believe Herem knew that he was upset about the actions of the other salespeople. Relator did not prove that he had good reason to quit his employment caused by his employer. Relator also failed to give his employer notice of the adverse working conditions, and consequently, failed to give his employer a reasonable opportunity to correct them. *See* Minn. Stat. § 268.095, subd. 3(c).

The ULJ properly determined that relator was terminated from his employment as of the date that he received the letter from Herem. "An employee who gives notice of intention to quit the employment and is not allowed by the employer to work the entire notice period shall be considered discharged from the employment as of the date the employer will no longer allow the employee to work." *Id.*, subd. 5(b) (2006). The ULJ determined that this discharge was for reasons other than misconduct. There is substantial evidence in the record to support this finding, as there is no evidence of any allegations of misconduct. Therefore, the ULJ properly determined that relator should not be disqualified from receiving benefits from the time he received the letter until the time that he intended to quit.

The ULJ was also correct in determining that relator's notice of his intention to quit was not for good reason caused by the employer, and that relator should be disqualified from receiving benefits as of the Sunday of relator's intended week of

separation. *See id.*, subd. 10(b) (stating ineligibility “imposed under subdivisions 1 and 4 begins on the Sunday of the week that the applicant became separated from employment”).

**Affirmed.**