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**STATE OF MINNESOTA
IN COURT OF APPEALS**

A13-0182, A13-0183, A13-0212, A13-0214, A13-0217, A13-0218, A13-0219, A13-0220, A13-0221, A13-0223, A13-0225, A13-0226, A13-0228, A13-0230, A13-0231

Kevin Yang,
Relator (A13-0182),

Nhiaker Yang,
Relator (A13-0183),

True Yang,
Relator (A13-0212),

Nhia Thong Moua,
Relator (A13-0214),

Ge Her,
Relator (A13-0217),

Kall Khue,
Relator (A13-0218),

Ker Lor,
Relator (A13-0219),

Pao Thao,
Relator (A13-0220),

Yer Moua,
Relator (A13-0221),

Ma C. Xiong,
Relator (A13-0223),

Erik Xiong,
Relator (A13-0225),

Shoua Xiong,
Relator (A13-0226),

Bee Yang,
Relator (A13-0228),

Ger Yang,
Relator (A13-0230),

Xhonching Yang,
Relator (A13-0231),

vs.

Sandvik, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

Filed December 23, 2013

Affirmed

Hooten, Judge

Department of Employment and Economic Development
File No. 30135447-3

Der Yang, Village Lawyer, LLC, St. Paul, Minnesota (for relators)

Matthew P. Kostolnik, Moss & Barnett, Minneapolis, Minnesota; and

Thomas F. Hurka (pro hac vice), Morgan, Lewis & Bockius, LLP, Chicago, Illinois (for respondent employer)

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

Considered and decided by Stoneburner, Presiding Judge; Hudson, Judge; and Hooten, Judge.

UNPUBLISHED OPINION

HOOTEN, Judge

Relators-employees challenge the denial of their claims for unemployment benefits, arguing that the unemployment law judge (ULJ) erred by determining that they quit their jobs without a good reason caused by respondent-employer and that they were not afforded a fair hearing. Because substantial evidence supports the ULJ's determination and the ULJ conducted a fair hearing, we affirm.

FACTS

Relators are 15 Hmong men who worked the second shift at respondent Sandvik, Inc.'s precision-grind shop. Following their separation from employment, respondent Department of Employment and Economic Development (DEED) determined that relators were ineligible for unemployment benefits because they were discharged on August 13, 2012, for misconduct. Relators appealed this determination, and the ULJ conducted a consolidated, in-person hearing. All relators were represented by one attorney. Only relators Shoua Xiong, Pao Thao, Nhia Moua, Bee Yang, and Ger Yang testified for relators. Human resources manager Cheryl O'Rourke, production supervisor Robert Palm, and plant manager Richard Russo testified on behalf of Sandvik.

A. Events Leading up to Relators' Separation from Employment

The record establishes that in 2008, production manager Jeff Trout held a meeting with second-shift employees. According to Xiong, when some relators asked Trout about the attendance policy, Trout got upset and said, "[W]ell if you don't like it, then go back to where you came from." Xiong testified that nobody complained about this incident

afterwards because O'Rourke attended the meeting and observed the incident and because relators feared reprisal. O'Rourke admitted that she attended the meeting, but she testified that she did not recall Trout making this statement and would have fired him if he had.

In April 2012, Moua sent a letter to O'Rourke, complaining about his performance review. At O'Rourke's request, Russo met with Moua to discuss the review. Russo indicated to Moua that he believed that the review, which was "above average," was appropriate. He thought that Moua "seemed satisfied" after the explanation, and he did not recall Moua raising any other concerns during this meeting. Moua testified that during this meeting, he complained to Russo that he was told by his supervisor that all employees were given the same score but that he knew from talking to his Hmong co-workers that some of them received higher scores.

Also in April 2012, O'Rourke held a meeting with the second-shift employees to discuss an employment survey that was about to be distributed. Relators expressed concerns about pay disparity between the first and second shifts. O'Rourke testified that she investigated these concerns, and she concluded that second-shift employees received a 50 cent per hour premium on top of their base rate and that any other pay differences were attributed to employee seniority.

O'Rourke testified that Xiong complained to her in July 2012 that Sandvik should have hired him instead of Robert Zismer for a new shift-supervisor position. She testified that the position was opened to internal candidates and that she explained to Xiong that Zismer was hired because of his 20 years of supervisory experience. Russo testified that

Xiong approached him and asked why the company did not internally hire someone from the shop. He told Xiong that Zismer was selected because the company “needed someone with really strong experience in the sense of managing people and understanding the process.” Russo testified that race or national origin did not influence the hiring decision.

B. Relators Leaving Work Mid-Shift

In late July 2012, Moua was reassigned from operating two automatic machines to operating three automatic machines. Moua testified that operating three machines caused him shoulder and back pains, that he reported this to team lead Thao, and that Thao reported it to his supervisors and Russo. On August 6, 2012, Moua was again reassigned. Russo testified that the reassignment resulted from machines being moved to change the flow of materials and to improve the operating process. Moua’s work hours or pay did not change, but he moved to a different part of the factory and operated one manual machine. According to Russo, Moua’s reassignment was not motivated by race or national origin. Moua admitted that the reassignment was made, in part, to alleviate his pain from having to operate multiple machines. Moua did not complain to management about this reassignment.

Xiong testified that on the day that Moua was reassigned, he observed Zismer “forcing or bullying Mr. Nhia Moua like a child . . . by the new machine” but did not hear their conversation. Xiong explained: “[Zismer] did not use his hands or push [Moua], no physical contact, but just the expression on [Zismer]’s face, I can tell that he did not like the individual.”

That same day, and at Thao's request, Russo held a meeting with second-shift employees to discuss Moua's reassignment. Russo thought that the main concerns were that Moua felt disrespected by the change and the lack of discussion with him beforehand. Thao testified that he brought up issues of racial discrimination at this meeting. Xiong testified that other relators brought up the 2008 incident involving Trout so that Russo could investigate it. Russo testified that relators did not raise concerns about racial discrimination at this meeting. Russo believed that the issue was instead about the treatment of second-shift employees compared to first-shift employees. Russo testified that relators "brought up more operational issues" and that "there [were] many questions on why the changes, why [Moua] was being moved, why Bob Zismer was hired, [and] the role of Bob Zismer." He testified that he told the second-shift employees to "give [him] a chance to look into this, let [him] talk to [his] managers and supervisors, and . . . that [he] would have a meeting later that week."

Two days later, during the second shift, Russo called a meeting with the second-shift employees. Russo testified that when he began a presentation outlining the company's vision and the operational reasons for all of the changes, relators focused their concern on Moua's reassignment and the concerns they had raised on August 6. At some point during this meeting, Russo, Moua, and Xiong left to talk privately about the reassignment. Russo testified that he apologized to Moua for any disrespect he may have felt and explained to Moua that the reassignment was meant to be good for everyone. Russo further testified that he offered to move Moua back to his old position and that Moua accepted this offer. Moua claimed that Russo never made this offer and only told

him that he should “just start working and don’t mention anything else.” Moua testified that he brought up the issue of discrimination and asked Russo to “call in everyone to talk and to compromise.” According to Xiong, Moua said to Russo that management has discriminated against him and asked Russo to investigate and “fix his concerns.” Xiong testified that Russo and Moua “never got to a conclusion” as to Moua’s work assignment. Russo denied that he told Moua to just do what he said.

During Russo’s separate meeting with Moua and Xiong, the other second-shift employees continued their discussion. Tensions escalated. Thao told Trout that Moua should be recognized for his good work and that they should not be discriminated against. He claimed that Trout yelled and said that Moua was unable to perform his job. Thao admitted that he was the first one to leave the room and that other relators followed him. Thao took his tool box when he left.

Russo described the situation as “a very chaotic scene.” According to him, relators were “all at the front of the shop . . . [and] gathering up their stuff.” Eleven relators handed Russo their pass cards that allowed them access to the building, and at least two relators left with their tool boxes. All relators left work mid-shift. Xiong testified that as relators were leaving, Thao asked Russo to have O’Rourke set up a meeting with them so that they could discuss their concerns. Thao testified that when he requested this meeting, Russo told him that O’Rourke was out of the country and did not say when she would return. Russo denied that relators asked him to set up a meeting with O’Rourke. Russo testified that he asked Thao to discuss the situation, but Thao refused.

He further testified that he asked relators to stay and told them that O'Rourke would be in on Monday.

Russo testified that three second-shift employees stayed behind, including Kodjo Edoh, who is African-American. Thao disputed Russo's testimony that Edoh stayed at work. He testified that Edoh walked out with relators. Xiong testified that after relators and Edoh left work, they all gathered at Thao's house.

C. After Relators Left Work

O'Rourke testified that relators did not appear for scheduled work on August 9, 10, 13, and 14, and they did not communicate with her regarding their absences until she received an e-mail from relators' counsel on August 15. On August 13, O'Rourke sent each relator a letter stating that because relators "have neither returned to work nor called in reporting [their] status," Sandvik considered them to "have abandoned [their] job[s] and voluntarily resigned [their] employment."

On August 15, relators, through counsel, e-mailed O'Rourke a letter summarizing their grievances and stating that if O'Rourke did not respond within five days, they would "accept [this] silence as a formal termination." Relators claim that they sent this letter prior to receiving O'Rourke's letter sent on August 13.

On September 14, Sandvik offered relators the opportunity to return to work in the same positions, pay, benefits, and other terms of employment. Relators rejected the offer and agreed to return only if Sandvik fired Russo, Zismer, and Trout.

D. Relators' Exit from Work

Xiong testified that he was neither directed to leave work mid-shift nor fired. He claimed that he did “not want to leave [his] job at all, but on that day it was [his] choice to leave.” Xiong did not ask for permission to leave work early because he “felt that [Russo] did not investigate or fix the problems.” When the ULJ asked Xiong whether he quit voluntarily, Xiong answered, “I left on my own.” He testified that he did not return to work after August 8 “because no one had called [him] and directed [him] how to go back to work, so [he] did not know when to go back.” When asked whether he intended to return to work, Xiong testified: “yes, I would like to go back, but the boss never investigated . . . the discrimination that was going on.”

When the ULJ asked Thao whether he quit, Thao testified, “The truth is that with my job I felt that I was forced to leave.” He later elaborated:

[A]t the time we realized that Rich Russo is our boss and he didn't even address our concerns to the supervisors that they're still treating us like this, so I think that if we stay here and if I said something and someone else said something, it was going to be a big mess, it's going to be a big argument so . . . we decided to leave.

Thao testified that relators “agreed that once [they] felt better, everybody cooled down, that [they] would all go back to work.” When the ULJ asked why relators did not return to work the following day, Thao testified that “everyone was still unhappy.”

Ger Yang testified that he voluntarily walked off the job because Sandvik did not resolve relators' ongoing concerns. At the time he left work, his belief was that Sandvik was going to address relators' concerns.

When the ULJ asked Moua whether he left work mid-shift on his own, Moua testified, “I decided on my own with the hope that [O’Rourke] might try to remedy the issues and because Mr. Russo hadn’t been able to do so.”

Likewise, Bee Yang testified that he decided to leave on his own. He explained that relators “did not quit” but left work with the “expectation that Ms. O’Rourke was going to remedy the situation.”

E. Relators’ Grievances

When the ULJ asked about relators’ grievances, Xiong testified, “First of all, they don’t like us because our nationality is Hmong and we’re from Laos. Second of all, they did not like [us] because of [our] age, . . . some workers are 40 and 50 years old . . . and now [that] they’re getting older [their] performance is not as well.” Xiong admitted that some first-shift employees also appeared to be in their forties or fifties. He testified to numerous examples of alleged discrimination and unfair treatment: (1) his workload was higher than those of first-shift employees; (2) Trout made angry faces at him, did not say “hi” to him, and bumped him in the hallway; and (3) “just by looking” at Zismer, he believed that Zismer shared Trout’s disdain for him.

Thao testified to concerns about his pay rate and racial discrimination. He testified that he earned \$23.87 per hour plus a 50 cent per hour premium for being on second shift, but that he should have earned \$25 to \$28 per hour, which he received as offers after leaving Sandvik. He testified that a majority of other relators shared these same concerns. Thao testified that he did not complain to Sandvik management about his pay rate because he “never had the chance to say anything” during his performance

review with Russo. Thao was also concerned that Caucasian employees earned more money than Hmong employees. He did not have any paperwork to support this claim but based it on his review of a check that had been left on a toolbox by a Caucasian employee.

Both Xiong and Thao testified that in July or August 2012, Russo yelled profanity at Thao when Thao showed him a defective part produced by a Caucasian employee on the first shift. Thao believed that Russo's response was motivated by race because "[t]he Caucasian worker was the one that made the parts." Thao also testified that Russo yelled at him for calling the police to the factory when, in January 2011, Edoh's cousin showed up at the factory at midnight and then collapsed on the ground.

Thao also recounted an incident in May 2012 when Ma Xiong, a Hmong employee, was told to go home because of a lack of available work but that a Caucasian employee was not asked to leave. Thao testified that during that same week, Russo refused to help him move a Caucasian employee who was sleeping at a workstation. Instead, "Russo turned around and laughed and he said, tomorrow you mention this to [Trout], this is not my job." Thao also recalled that Zismer left work one day in August 2012 at 6:00 p.m. even though he usually left at 8:00 p.m. Thao claimed that Zismer leaving early proved management's discriminatory animus because Zismer's "face showed that he was upset." Thao believed that Zismer's facial expression, combined with Trout and Palm's demeanor, showed that they did not like the Hmong employees. Thao believed that relators' racial discrimination claims are evidenced by the fact that the

only second-shift employee that was called back to work after the walkout was African-American.

Ger Yang cited two grievances. The first was Moua's reassignment, which he claimed was done in "such a way that it was so disrespectful to [the] Hmong" people. Yang added that, in 2009, Russo promised that he would receive training on a new machine. Yang did not receive such training, but three Caucasian employees did. Yang claimed that this was racial discrimination because he had worked longer and harder than anyone else in that area.

Moua's grievance centered on his reassignment on August 6, 2012. Although he had injured his shoulder in December 2010 from lifting heavy equipment and had reported this injury to Palm, his doctor did not put him on any work restrictions. Although he never asked management to provide any work restrictions, he admitted that management told him that the reassignment was made, in part, to alleviate his pain by moving him to an area where he had to operate only one machine. Moua testified that after training on the new machine for two days, he experienced extreme pain. He did not report this pain to management because he did not have time to do so when relators walked out on August 8.

In support of his claims of racial discrimination, Moua asserted that management knew that his reassignment would cause him more pain. Moua further asserted that management hated him because he had seen a co-worker's paystub five years ago, which indicated that the less-experienced co-worker earned more than he earned. On further questioning, Moua admitted that he did not know the specifics of this co-worker's

educational background and prior work experience. Moua also claimed racial discrimination on the basis that he had received a lower score on his performance review than some of his other Hmong co-workers. Moua was unable to explain how his performance review supported his claims of racial discrimination. Finally, Moua testified that it was inappropriate for Russo to have a separate meeting with him in his office on August 8. He wanted Russo to address his concerns in front of the entire second shift because, “Everyone must bear witness that they disrespect me, they discriminate.”

Bee Yang testified that he believed that management “specifically hate[d] [their] race” because Russo had promoted a Caucasian co-worker who had less work experience than him.

There was no evidence that relators complained to human resources or management about their claims of discrimination prior August 6. O’Rourke testified that she never received any discrimination complaints.

F. The ULJ’s Decisions

The ULJ found that relators quit on August 8, 2012, and that relators did not have a good reason to quit because the evidence did not show that Sandvik discriminated against them on the basis of race. The ULJ also found that relators did not provide Sandvik with a reasonable opportunity to respond to their concerns. Thus, the ULJ determined that relators were ineligible for unemployment benefits. After relators’ request for reconsideration, the ULJ affirmed her decision. This certiorari appeal followed.

DECISION

When reviewing the ULJ's determination of ineligibility for unemployment benefits, this court may affirm the decision, remand it for further proceedings, or reverse or modify it if the relator's substantial rights have been prejudiced because the findings, inferences, conclusion, or decision are unsupported by substantial evidence in view of the record as a whole, affected by an error of law, or made on unlawful procedure. Minn. Stat. § 268.105, subd. 7(d)(3)-(5) (2012).

“This court views the ULJ's factual findings in the light most favorable to the decision. This court also gives deference to the credibility determinations made by the ULJ. As a result, this court 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) (citations omitted), *review denied* (Minn. Oct. 1, 2008).

I.

An employee who quits voluntarily is not eligible for unemployment benefits unless a statutory exception applies. Minn. Stat. § 268.095, subd. 1 (2012). Whether an employee quit “is a question of fact subject to our deference.” *Stassen v. Lone Mountain Truck Leasing, LLC*, 814 N.W.2d 25, 31 (Minn. App. 2012). “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) (2012).

The ULJ found that relators voluntarily quit their employment with Sandvik “when they walked off their shifts on August 8, 2012.” Relators argue that they “did not intend to quit their employment but rather, it was to protest Mr. Russo's non-

responsiveness to their complaints.” We are not persuaded. Although relators testified that they intended to return to work, their conduct of abandoning work mid-shift, turning in their pass cards, taking their tool boxes, and then never returning to work are substantial evidence that they intended to quit their employment.

II.

Relators argue that even if they had quit their employment, they did so “because of a good reason caused by the employer,” and therefore are still entitled to unemployment benefits. *See* Minn. Stat. § 268.095, subd. 1(1). Racial discrimination may constitute a good reason to quit employment. *Marz v. Dep’t of Emp’t Servs.*, 256 N.W.2d 287, 289 (Minn. 1977); *see also* Minn. Stat. § 268.095, subd. 3(a) (2012) (defining “good reason” as a reason that is attributed to the employer, is adverse to the worker, and “would compel an average, reasonable worker to quit and become unemployed rather than remaining in the employment”). Before quitting is considered to be for a good reason, an employee is required to “give the employer a reasonable opportunity to correct the adverse working conditions.” Minn. Stat. § 268.095, subd. 3(c) (2012). The ULJ’s “determination regarding the reason for an employee’s separation is a factual determination.” *Embaby v. Dep’t of Jobs & Training*, 397 N.W.2d 609, 611 (Minn. App. 1986).

Here, the ULJ acknowledged that relators “may have felt that they were treated unfairly and discriminated against,” but found that no such mistreatment occurred and that relators quit because they were dissatisfied with Sandvik’s business decisions and miscommunication. We do not take lightly the allegation of racial discrimination, but

based on our thorough review of the record, we conclude that substantial evidence supports the ULJ's determination.

Five relators testified as to Sandvik's alleged discriminatory conduct, which included allegations that Sandvik paid Caucasians a higher hourly rate, promoted a Caucasian to a supervisory role on the basis of his race, and engaged in numerous other discriminatory behaviors over the years. But the Sandvik witnesses testified that employees were compensated based on their seniority, and relators offered no contrary evidence except their claiming to see their Caucasian co-workers' paychecks that were left out in the open. Moreover, the Sandvik witnesses' undisputed testimonies were that the Caucasian supervisor was hired based on his management experience, not his race. Significantly, when the ULJ asked relators why they believed management's behaviors were racially motivated, their testimonies do not evidence racial discrimination but only vague feelings and ambiguous observations, such as a supervisor's "angry face" or "facial expression" demonstrating that he disliked the Hmong employees.

The only incident that might support a claim of racial discrimination is Trout's alleged statement that relators should "go back to where [they] came from." But O'Rourke denied that Trout made this statement, and the statement was allegedly made in 2008, far removed from the events that led relators to quit in 2012. In light of this factual dispute, we must defer to the ULJ's credibility determination that Sandvik's witnesses were more credible than relators' witnesses. Substantial evidence, therefore, supports the ULJ's determination that relators quit because they were personally dissatisfied with management's business decisions. "A good personal reason does not equate with good

cause.” *Kehoe v. Minn. Dep’t of Econ. Sec.*, 568 N.W.2d 889, 891 (Minn. App. 1997) (quotation omitted).

Even if relators’ alleged discrimination claims have merit, the ULJ also found that relators failed to give Sandvik a reasonable opportunity to correct the adverse working conditions. Relators do not challenge the ULJ’s factual determination that they complained to management of racial discrimination, at the earliest, on August 6. But they argue that after complaining, Sandvik failed to provide any assistance. We are not persuaded.

Relators analogize their situation to that in *Hanke v. Sanfari Hair Adventure*, in which we held that an employee had a good reason to quit when the employee reported to the owner of the manager’s harassing comments, and the owner responded that he could not “control the opinions of what other people feel or think.” 512 N.W.2d 614, 617–18 (Minn. App. 1994). But, unlike the owner in *Hanke*, Sandvik management never indicated to relators that the company could do nothing about the alleged discrimination. In fact, the record supports that management attempted to address relators’ concerns during the August 8 group meeting and separate meeting with Moua and Xiong. And, Russo’s undisputed testimony is that he asked relators to stay at work and wait until a meeting with O’Rourke could be scheduled when she returned from abroad. Relators admitted that they were the ones who left the meeting and abandoned their work mid-shift just two days after complaining. Under these facts, two days does not provide a reasonable opportunity to correct relators’ alleged adverse working conditions.

Relators also argue that, during the August 8 group meeting, Russo “proceeded to discuss a non-related, uncontroverted policy called the ‘Sandvik Vision’” rather than address their concerns. But an employer is certainly entitled to discuss company policies, even if the topic of such discussion is uncontroverted and unrelated to the alleged discrimination. Such discussion does not support relators’ claims that Sandvik was unwilling to address their concerns, particularly in light of management’s attempt to hold a meeting with O’Rourke.

Finally, relators argue that O’Rourke “did not make any attempts to contact any of the [r]elators or investigate the discrimination claims” after her return from abroad. But while this is true, the reasonable-opportunity requirement must be analyzed on the facts prior to when relators quit. Relators quit on August 8, and the fact that O’Rourke did not contact them on August 13 is irrelevant.

We conclude that substantial evidence supports the ULJ’s findings that relators quit without a good reason attributed to Sandvik and, in any event, failed to give Sandvik a reasonable opportunity to address their concerns. Therefore, the ULJ did not err in determining that relators are ineligible for unemployment benefits.

III.

Relators also advance five arguments that the ULJ conducted an unfair hearing. We disagree and address each in turn.

A. Limiting Testimony

Relators first claim that the ULJ “disallowed each [r]elator to be heard on his own specific complaints.” But it was relators’ counsel who requested the group hearing and

offered only the testimonies of five relators to represent all relators. In fact, Sandvik's counsel objected to the idea of specific relators representing the whole group. In response, relators' counsel asserted that all relators "have similar causes for leaving that day." The ULJ then "defer[red] to [relators' counsel] in what witnesses to start with on behalf of [them]." The ULJ also instructed: "[B]oth sides always have the standing right to ask to call any particular witness and then I will make the decision at that point if we should call that witness."

The ULJ precluded relators' testimonies on only two occasions. First, when Bee Yang was testifying on direct examination, the ULJ instructed relators' counsel to refrain from asking broad questions that were unhelpful for fact-finding. Immediately after this instruction, relators' counsel asked Yang: "Why should you and your group of co-workers receive unemployment benefits?" The ULJ ended Yang's direct examination because the questions were "too broad and not specific." Second, before closing statements, the ULJ gave relators "a brief opportunity to raise any new information." Relators' counsel offered the testimony of an unnamed relator who was "profoundly affected" by Trout's statement in 2008 and wanted the ULJ to "give him the opportunity to tell Mr. Trout how that made him feel." The ULJ explained that she is not a mediator, denied admission of this testimony, and asked whether counsel wanted to offer any other testimony. Counsel declined. Relators cannot now fault the ULJ for this choice.

B. Shifting the Burden of Proof

Relators argue that the ULJ "unfairly shift[ed] the burden of proof onto" them. "An applicant's entitlement to unemployment benefits must be determined based upon

that information available without regard to a burden of proof.” Minn. Stat. § 268.069, subd. 2 (2012). The ULJ must make factual findings “based on a preponderance of the evidence.” Minn. Stat. § 268.105, subd. 1(b) (2012). Relators do not specify in what manner the ULJ allegedly shifted the burden of proof onto them. And there is nothing in the record that supports relators’ claims that the ULJ inappropriately shifted the burden of proof onto relators.

C. Failing to Make Statutorily Required Credibility Findings

Relators argue that the ULJ’s credibility determination violated Minn. Stat. § 268.105, subd. 1(c) (2012), which provides: “When the credibility of an involved party or witness testifying in an evidentiary hearing has a significant effect on the outcome of a decision, the [ULJ] must set out the reason for crediting or discrediting that testimony.”

In finding that Sandvik did not mistreat relators, the ULJ determined that:

To the extent that [relators’] witnesses . . . provided a different version of events than Sandvik’s witnesses, . . . it is found that the employer’s witnesses provided a more logical chain of events that was consistent with their notes from the August 2012 meetings and, therefore, is found to be more credible.

We are not unsympathetic to relators’ plea for more explicit credibility findings. It is unclear which of relators’ five witnesses and which parts of their testimonies are being discredited when the ULJ only used the words “[t]o the extent” in identifying them. The ULJ also did not clearly explain why these unidentified testimonies were not credible. Absent from the decision are any discussions on “the [witnesses’] interest in the case’s outcome, the source of the [witnesses’] information, the [witnesses’] demeanor and

experience, and the reasonableness of the [witnesses'] testimony.” *See Wichmann v. Travalia & U.S. Directives, Inc.*, 729 N.W.2d 23, 29 (Minn. App. 2007) (remanding for credibility findings).

But the law requires that the ULJ set out the reason for discrediting testimony only when credibility will have “a significant effect on the outcome of a decision.” Minn. Stat. § 268.105, subd. 1(c). Even based solely upon relators’ testimony, there was substantial evidence supporting the ULJ’s determination that relators quit their employment. While there was disputed evidence regarding whether there was discrimination which caused them to quit their employment, there was no disputed material facts regarding relators’ failure to give Sandvik a reasonable opportunity to respond to their concerns of discrimination. Since there were no credibility issues associated with this latter finding, this finding alone would support the ULJ’s denial of unemployment benefits. Based upon this record, we conclude that the ULJ’s credibility findings did not have a significant effect on the outcome.

D. Refusing to Order an Additional Evidentiary Hearing

Relators argue that the ULJ erred by not considering new evidence in conjunction with relators’ request for reconsideration, which included newly submitted affidavits and a request that the testimony of all 15 relators be allowed. “In deciding a request for reconsideration, the [ULJ] must not, except for purposes of determining whether to order an additional evidentiary hearing, consider any evidence that was not submitted at the evidentiary hearing.” Minn. Stat. § 268.105, subd. 2(c) (2012). “The [ULJ] must order an additional evidentiary hearing if an involved party shows that evidence which was not

submitted at the evidentiary hearing . . . would likely change the outcome of the decision and there was good cause for not having previously submitted that evidence” *Id.* “A reviewing court accords deference to a ULJ’s decision not to hold an additional hearing and will reverse that decision only for an abuse of discretion.” *Skarhus v. Davanni’s Inc.*, 721 N.W.2d 340, 345 (Minn. App. 2006). Here, relators have failed to show good cause for not previously submitting the evidence, particularly in light of the fact that it was relators’ counsel who requested that only five relators testify. The ULJ properly exercised its discretion in refusing to consider the new evidence.

E. Refusing to Subpoena a Material Witness

Finally, relators argue that the ULJ erred in refusing to subpoena Edoh. “The [ULJ] must give full consideration to a request for a subpoena and must not unreasonably deny a request for a subpoena.” Minn. Stat. § 268.105, subd. 4 (2012). But the ULJ may deny subpoena requests “if the testimony or documents sought would be irrelevant.” Minn. R. 3310.2914, subp. 1 (2011). Relators argue that Edoh’s testimony would support their discrimination claims because Edoh, an African-American, left work with relators on August 8, but, unlike relators, was asked to return. But even if Edoh had left work with relators, a fact disputed by Sandvik, the issue of whether he was called back to work is irrelevant because relators had already quit at this point. The ULJ, therefore, properly denied relators’ subpoena request.

Affirmed.