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**STATE OF MINNESOTA
IN COURT OF APPEALS
A08-1561**

Richard J. Guenther,
Relator,

vs.

Independent School District #2899,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed August 11, 2009
Affirmed
Worke, Judge**

Department of Employment and Economic Development
File No. 20446549-3

Richard J. Guenther, 102 Fifth Avenue Northeast, Apt. 102, Plainview, MN 55964 (pro se relator)

Independent School District #2899, 500 West Broadway, Plainview, MN 55964 (respondent employer)

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

Considered and decided by Worke, Presiding Judge; Minge, Judge; and Collins, Judge.*

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

UNPUBLISHED OPINION

WORKE, Judge

Relator challenges the decision of the unemployment-law judge (ULJ) that he quit his employment without a good reason caused by the employer and is ineligible to receive unemployment benefits, arguing that (1) he should be eligible for benefits; (2) his employer failed to bring a timely appeal; and (3) because two separate eligibility decisions exist, the hearing was confusing and he was unaware of the issues and unprepared to defend his position. We affirm.

DECISION

The ULJ determined that relator Richard J. Guenther was voluntarily unemployed and ineligible for benefits after his employer respondent Independent School District #2899 (school district) granted his request for an unpaid extended leave of absence. On certiorari review, this court will not disturb the ULJ's decision unless it was outside the department's jurisdiction, based on unlawful procedure, affected by legal error, unsupported by substantial evidence with respect to the entire record, or arbitrary or capricious. Minn. Stat. § 268.105, subd. 7(d) (Supp. 2007). "We view the ULJ's factual findings in the light most favorable to the decision, giving deference to the credibility determinations made by the ULJ. In doing so, we will not disturb the ULJ's factual findings when the evidence substantially sustains them." *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006) (citations omitted).

While relator does not explicitly challenge the ULJ's determination that he is ineligible for benefits because he quit without a good reason caused by his employer, he

does assert that he is eligible for benefits. “An applicant who quit employment is ineligible for all unemployment benefits” unless a statutory exception applies. Minn. Stat. § 268.095, subd. 1 (Supp. 2007). An exception to ineligibility applies if the applicant quit “because of a good reason caused by the employer.” *Id.*, subd. 1(1). A “good reason” is a reason that “(1) [] is directly related to the employment and for which the employer is responsible; (2)[] is adverse to the worker; and (3)[] would compel an average, reasonable worker to quit and become unemployed rather than remaining in the employment.” *Id.*, subd. 3(a) (Supp. 2007). “[T]here must be some compulsion produced by extraneous and necessitous circumstances.” *Ferguson v. Dep’t of Employment Servs.*, 311 Minn. 34, 44 n.5, 247 N.W.2d 895, 900 n.5 (1976). And while an individual may have a good personal reason to quit, that is not a good reason to quit caused by the employer. *Kehoe v. Minn. Dept. of Econ. Sec.*, 568 N.W.2d 889, 891 (Minn. App. 1997). The reasonable-worker standard is objective and is applied to the average person rather than the supersensitive. *Ferguson*, 311 Minn. at 44 n.5, 247 N.W.2d at 900 n.5. “The determination that an employee quit without good reason [caused by] the employer is a legal conclusion,” which we review de novo. *Nichols v. Reliant Eng’g & Mfg., Inc.*, 720 N.W.2d 590, 594 (Minn. App. 2006).

On September 28, 2006, relator was involuntarily suspended from his teaching position for making an inappropriate joke. Relator was suspended with full pay until November 13, 2006. In mid-November, 2006, relator and the school district entered into a settlement agreement, and relator remained on the payroll until August 31, 2007. Relator’s union representatives supported the agreement, and relator decided to accept the

agreement because he felt too uncomfortable to return to the school. Under the agreement, relator would be on paid administrative leave November 13, 2006, through August 31, 2007. The agreement also provided that relator requested, and the school district granted, “an unpaid extended leave of absence,” which began on September 1, 2007. The school district approved the leave for a maximum of five years, during which time the school district would continue to make contributions on relator’s behalf to his pension plan. If relator returned to his employment, he would be required to repay the school district’s contributions to his pension plan and the salary he received beginning November 2006.

At the hearing, relator stated that he had no intention of returning to a teaching position because it would be too uncomfortable. Therefore, the ULJ appropriately found that relator quit his employment when he accepted the terms of the settlement agreement. And relator did not have a good reason to quit caused by his employer because relator’s excuse for not returning to his teaching position was that it would be too uncomfortable. While relator may have a good personal reason for quitting his employment, the reason is not a good reason caused by the school district. Therefore, the ULJ did not err in determining that relator is ineligible to receive unemployment benefits.

Relator next argues that the school district failed to file a timely appeal from the determination of eligibility issued by respondent Department of Employment and Economic Development (DEED). Relator established a benefit account on December 23, 2007. DEED issued two determinations; one was issued on March 24, 2008, and the other on April 21, 2008. The April 21 determination provided that it would become final

unless appealed by May 12, 2008. On May 2, 2008, the school district appealed. At the evidentiary hearing, relator argued that the school district's appeal was untimely, seemingly referring to the March 24 determination. The ULJ stated that the appeal was from "the determination that was issued April 21 [the school district] had until May 12 [to file an appeal] . . . and they filed May 2."

In his request for reconsideration, relator again raised the timeliness issue. The ULJ affirmed her decision, noting that: "The [March 24] issue . . . was whether . . . [relator] should be denied unemployment benefits on the grounds that he received deductible remuneration in the form of severance pay in amounts in excess of his weekly unemployment benefit amount that applied to weeks during his benefit year." The March 24 decision had no bearing on the fact that another issue affecting relator's eligibility for benefits—whether his leave of absence was voluntary—had to be determined. The school district filed a timely appeal, and relator's argument is without merit.

Relator also claims that he was not prepared for the hearing because he was unaware that the issue related to his extended leave of absence. The ULJ noted that a notice of appeal was mailed to relator on May 5, advising him that the school district appealed the leave-of-absence eligibility determination. Relator responded by mailing a letter to the appeals office on May 8; therefore, he was aware of the issue to be addressed at the hearing. Further, the ULJ noted that relator provided extensive testimony regarding each issue he claimed he was unable to raise in his defense and that he failed to provide any information to show that the ULJ's initial decision should not be affirmed.

Affirmed.