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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-1726**

Jessica Hanft,
Relator,

vs.

ReVamp Makeover, LLC,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed June 25, 2012
Affirmed
Larkin, Judge**

Department of Employment and Economic Development
File No. 27800206-3

Jessica Hanft, Minneapolis, Minnesota (pro se relator)

ReVamp Makeover, LLC, Minneapolis, Minnesota (respondent)

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

Considered and decided by Connolly, Presiding Judge; Larkin, Judge; and Willis,
Judge.*

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

UNPUBLISHED OPINION

LARKIN, Judge

Relator challenges the decision of an unemployment-law judge (ULJ) that she quit her employment without a good reason caused by her employer and is therefore ineligible for unemployment benefits. She also argues that the ULJ abused his discretion in denying her request for an additional hearing. We affirm.

FACTS

Relator Jessica Hanft's employment as a front-desk coordinator at respondent ReVamp Makeover L.L.C. ended when she quit her employment on September 2, 2010. Hanft established an unemployment-benefit account and received benefits. In 2011, after ReVamp challenged her eligibility, respondent Department of Employment and Economic Development (DEED) determined that Hanft was ineligible for unemployment benefits. Hanft appealed the ineligibility determination, and a ULJ held an evidentiary hearing. Following the hearing, the ULJ decided that Hanft quit her employment and was therefore ineligible for unemployment benefits. Hanft requested reconsideration, and the ULJ affirmed his decision. This certiorari appeal follows, in which Hanft asks this court to apply its own "independent judgment" and to remand the case for further proceedings.

DECISION

This court will correct a ULJ's decision if, among other reasons, it constitutes an error of law or is unsupported by substantial evidence. Minn. Stat. § 268.105, subd. 7(d) (2010). "This court views the ULJ's factual findings in the light most favorable to the decision." *Peterson v. Nw. Airlines Inc.*, 753 N.W.2d 771, 774 (Minn. App. 2008),

review denied (Minn. Oct. 1, 2008). We will not disturb a ULJ's findings when they are substantially sustained by the evidence. *Id.*

An applicant who quits employment is ineligible for unemployment benefits, subject to certain exceptions. Minn. Stat. § 268.095, subd. 1 (2010). There is an exception to ineligibility if “the applicant quit the employment because of a good reason caused by the employer.” *Id.*, subd. 1(1). A good reason to quit caused by an employer “is 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) (2010).

“The phrase ‘good cause attributable to the employer’ does not encompass situations where an employee experiences irreconcilable differences with others at work or where the employee is simply frustrated or dissatisfied with [her] working conditions.” *Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 14 (Minn. App. 1986). “[T]o constitute good cause, the circumstances which compel the decision to leave employment must be real, not imaginary, substantial not trifling, and reasonable, not whimsical; there must be some compulsion produced by extraneous and necessitous circumstances.” *Ferguson v. Dep’t of Emp’t Servs.*, 311 Minn. 34, 44 n.5, 247 N.W.2d 895, 900 n.5 (1976) (quotation omitted). An employee’s reason for quitting employment is an issue of fact for the ULJ. But whether that reason meets the statutory standard of “a good reason caused by the employer” is a legal question, which this court reviews de novo. *Peppi v. Phyllis Wheatley Cmty. Ctr.*, 614 N.W.2d 750, 752 (Minn. App. 2000).

Hanft argues that she quit her employment because of a good reason caused by her employer. Hanft asserts that “[h]er employment was so adverse that the work environment would compel an average, reasonable worker to quit and become unemployed.” She contends that she was “subject to discrimination at the hands of her [co-]employees and the general manager of the salon.” Hanft testified that she felt undervalued, unliked by others, that she was singled out when disciplined, and that managers handled situations in an unprofessional manner. Hanft testified regarding two incidents in which she experienced conflicts with her manager and other employees. Both incidents involved policy violations. In the first incident, Hanft had her cellular telephone at the front desk in violation of her employer’s policy. In the second incident, Hanft violated her employer’s dress-code policy by wearing sheer, rather than black, nylons.

Hanft’s manager testified that Hanft was not singled out and that he attempted to work with Hanft and other employees regarding personality conflicts. Hanft disputes the veracity of her manager’s testimony, contending that he “lied under oath.” But the ULJ expressly credited the manager’s testimony, concluding that he “described a more likely set of circumstances.” This court defers to the ULJ’s credibility determination and his attendant finding that Hanft was not subject to discrimination or singled out by management. *See Peterson*, 753 N.W.2d at 774 (“This court . . . gives deference to the credibility determinations made by the ULJ.”).

Moreover, the record does not indicate that Hanft’s manager acted arbitrarily toward her; he reacted in response to her violations of employment policies. *See*

Bongiovanni v. Vanlor Invs., 370 N.W.2d 697, 699 (Minn. App. 1985) (concluding that an employee did not have good cause for quitting employment when the employer’s negative relationship with an employee was not arbitrary or unreasonable and did not amount to harassment). Hanft’s dissatisfaction with how the two policy-violation incidents were handled by management—which may not have been ideal¹—does not constitute good cause for quitting such that she is eligible for unemployment benefits. *See Portz*, 397 N.W.2d at 14 (recognizing that “‘good cause attributable to the employer’ does not encompass situations where an employee experiences irreconcilable differences with others at work”).

We also observe that Hanft did not notify her employer of her concerns until a meeting with her manager, at which she quit her employment. At this meeting, Hanft complained about how the two policy-violation incidents were handled, raised concerns regarding other employees, and announced that she was quitting her job because of these issues. “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.” Minn. Stat. § 268.095, subd. 3(c) (2010). Thus, even if we were to conclude that the manager’s reactions to Hanft’s policy violations

¹ After Hanft’s manager discovered her cellular telephone at the front desk, he told her, “If I see this f---ing phone on the front desk again, you’re f---ing out of here.” Following the dress-code violation, Hanft was told to buy new nylons or to go home; she went home. Hanft received a text message that day indicating that “because she left work early, her shifts were covered until further notice because [her manager] wanted to meet with [her].”

constituted a good reason for quitting, Hanft would nonetheless be ineligible for benefits because she did not give her employer a reasonable opportunity to correct the adverse working conditions before quitting her employment.

In Hanft's request for reconsideration, she argued that she should be allowed to subpoena five witnesses who would support her allegations of discrimination. Hanft argues that "had the request for reconsideration been granted the decision of the [ULJ] would have been overturned." We construe this argument as a challenge to the ULJ's denial of her request for an additional evidentiary hearing. A ULJ must order an additional evidentiary hearing if a party shows that evidence that was not submitted at the original hearing would likely change the outcome of the case and the party had good cause for not submitting the evidence. Minn. Stat. § 268.105, subd. 2(c) (2010). We review the ULJ's decision to deny an additional evidentiary hearing for an abuse of discretion. *Ywswf v. Teleplan Wireless Servs., Inc.*, 726 N.W.2d 525, 533 (Minn. App. 2007).

On appeal, Hanft argues that she was "ill equipped to proceed without counsel" at the evidentiary hearing and did not understand "the full extent of her subpoena power under the law." She further argues that if she had "unequivocally understood her rights . . . she would have presented the evidence in her possession and the outcome would certainly be different." And she blames the ULJ for her inadequate understanding of her rights. *See* Minn. R. 3310.2921 (2011) (stating that a ULJ "should assist unrepresented parties in the presentation of evidence" and "must ensure that relevant facts are clearly and fully developed").

The record shows that the ULJ explained Hanft's rights at the beginning of the hearing, including her right to "request that the hearing be rescheduled so that documents or witnesses can be subpoenaed." In fact, the ULJ advised Hanft of this right twice during the hearing. In denying Hanft's request for an additional evidentiary hearing, the ULJ reasoned that he twice informed Hanft that she had the right to reschedule the hearing to call witnesses; that Hanft "more likely than not" received a package of information from DEED before the hearing that included information about legal representation and the opportunity to subpoena witnesses and documents; and that during the hearing, Hanft stated that she did not have questions about the procedures. The ULJ therefore concluded that Hanft failed to show good cause for not submitting her proffered evidence at the hearing. The resulting denial of Hanft's request for an additional evidentiary hearing was not an abuse of discretion.

Affirmed.