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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-1657**

Valerie Stoe,
Relator,

vs.

Aagesen Chiropractic Clinic, PA,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed July 16, 2012
Affirmed
Halbrooks, Judge**

Department of Employment and Economic Development
File No. 27627723-3

Valerie Stoe, Brooklyn Park, Minnesota (pro se relator)

Aagesen Chiropractic Clinic, PA, St. Louis Park, Minnesota (respondent)

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

Considered and decided by Halbrooks, Presiding Judge; Worke, Judge; and
Bjorkman, Judge.

UNPUBLISHED OPINION

HALBROOKS, Judge

Relator challenges the unemployment-law judge's (ULJ) determination that she is ineligible for benefits. Because there is substantial evidence in the record to support the ULJ's decision, we affirm.

FACTS

Relator Valerie Stoe was employed as a patient coordinator at respondent Aagesen Chiropractic Clinic from March 26, 2010, through April 15, 2011. She worked full-time and was paid every other Monday. Relator alleges that she quit because she was not paid on time and because the clinic did not have sufficient funds to cover her paychecks.

There were four incidents when the clinic did not pay relator on time. Relator's paychecks dated June 7, 2010, and June 21, 2010, bounced due to insufficient funds. Relator said that the clinic remedied this problem right away by writing new checks that cleared on June 17 and 26 that also covered overdraft and returned-check fees. The third incident occurred over the 2010 Fourth of July holiday when the clinic issued paychecks late as a result of the holiday weekend. The last incident occurred when relator was paid late from February 16, 2011, because Sure Payroll, a separate payroll processing company, was unable to print paychecks. On this occasion, relator received her check two days late.

Relator alleged that the clinic was late in paying her because there were not always sufficient funds immediately available on the Mondays that the checks were issued. But she could not provide specific dates as to when this occurred. Relator testified that after

the two incidents in June 2010, she cashed her paychecks at the bank that the clinic used in order to ensure that the checks would go through on the same day. According to relator, at times the bank advised her that she could not cash her check because there were insufficient funds. Maria Aagesen, on behalf of the clinic, explained that while payday was on Monday, the checks were usually issued after 5:00 p.m., and the clinic did not expect employees to cash their checks until the next day. Maria Aagesen stated that there were always sufficient funds on Tuesdays and that other than the two times in June 2010, relator never had to wait to cash her checks.

Relator presented evidence, and Maria Aagesen acknowledged, that the business had cash-flow problems. But Maria Aagesen stated that this never affected relator's paychecks. Furthermore, Maria Aagesen provided the dates that the clinic issued checks to relator and the dates those checks cleared the bank. Other than the two instances in June 2010, the checks cleared within two days, if not on the same day, that they were issued.

Relator gave notice to the clinic on March 28, 2011, that she was quitting, effective April 15. She applied for unemployment benefits, and respondent Minnesota Department of Employment and Economic Development (DEED) initially determined that she was eligible because she had quit her job for a good reason caused by her employer. The clinic appealed, and the ULJ found that relator did not have a good reason to quit, making her ineligible for unemployment benefits. Relator requested reconsideration, and the ULJ affirmed. This certiorari appeal follows.

DECISION

When reviewing the decision of a ULJ, this court may affirm the decision, remand the case for further proceedings, or reverse or modify the decision if the substantial rights of the relator have been prejudiced because the findings, inferences, conclusion, or decision are affected by error of law or unsupported by substantial evidence in view of the entire record. Minn. Stat. § 268.105, subd. 7(d)(4)-(5) (2010). Substantial evidence is “(1) such relevant evidence as a reasonable mind might accept as adequate to support a conclusion; (2) more than a scintilla of evidence; (3) more than some evidence; (4) more than any evidence; or (5) the evidence considered in its entirety.” *Minn. Ctr. for Env'tl. Advocacy v. Minn. Pollution Control Agency*, 644 N.W.2d 457, 466 (Minn. 2002).

An employee who voluntarily quits employment is ineligible for unemployment benefits unless “the applicant quit the employment because of a good reason caused by the employer.” Minn. Stat. § 268.095, subd. 1(1) (2010). A “good reason” for quitting 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.” Minn. Stat. § 268.095, subd. 3(a) (2010). An applicant must complain to the employer about the adverse working condition and give the employer a reasonable opportunity to correct the problem before it can be considered a good reason to quit. Minn. Stat. § 268.095, subd. 3(c) (2010).

An employee’s reason for quitting employment is a fact question for the ULJ to determine. *Beyer v. Heavy Duty Air, Inc.*, 393 N.W.2d 380, 382 (Minn. App. 1986).

This court views factual findings in the light most favorable to the decision and defers to the ULJ's credibility determinations. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). But whether the reason satisfies the statute is a question of law, which this court reviews de novo. *Nichols v. Reliant Eng'g & Mfg., Inc.*, 720 N.W.2d 590, 594 (Minn. App. 2006).

Relator contends that she quit her job at the clinic because she was not paid on time and the clinic did not always have sufficient funds to cover payroll at the time it issued relator her paychecks. The ULJ determined that payday at the clinic was, in practical effect, every other Tuesday. The ULJ elaborated in its order on reconsideration that “[t]here is nothing inherently wrong with the employer issuing the check at 5:00 p.m. the day prior to the actual pay day and expecting the employee to wait to deposit it [on] the next day (the pay day).”

In the initial findings of fact and decision, the ULJ found that relator was able to cash her checks on time every Tuesday since June 2010, and that while the clinic asked other employees to wait to cash their checks when it had cash-flow problems, the clinic never asked relator to do so. The ULJ also found that, after June 2010, relator never complained to the clinic that she could not cash her check on time. Furthermore, the ULJ found the testimony from Maria Aagesen to be more credible than relator's testimony because relator could not provide specific dates or checks that she alleged were not timely or that she could not cash, while Maria Aagesen provided detailed records. We conclude that the ULJ's factual determinations are supported by substantial evidence in the record when it is viewed in the light most favorable to the decision. Because relator

did not have a good reason to quit her employment, she is ineligible for benefits under Minn. Stat. § 268.095, subd. 1(1).

Affirmed.