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**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-1982**

Lydia F. Guise,
Relator,

vs.

American Enterprise Investment Services, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent

**Filed August 13, 2012
Affirmed
Wright, Judge**

Minnesota Department of Employment and Economic Development
File No. 28350329-3

Lydia F. Guise, Woodbury, Minnesota (pro se relator)

American Enterprise Investment Services, c/o Talx UCM Services, Inc., St. Louis,
Missouri (respondent)

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

Considered and decided by Ross, Presiding Judge; Wright, 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UNPUBLISHED OPINION

WRIGHT, Judge

In this certiorari appeal, relator challenges the unemployment law judge's (ULJ) determination that relator is ineligible to receive unemployment benefits because she quit her employment without a good reason attributable to her employer and without a medical necessity to quit. Relator argues that she was unfairly targeted and harassed by a supervisor and coworkers because of her race and gender, that the ULJ relied on the employer's false statement that relator quit for "personal reasons," and that the ULJ ignored evidence that relator submitted with her request for reconsideration. We affirm.

FACTS

Relator Lydia F. Guise worked for American Enterprise Investment Services, Inc. (AEIS), from August 2001 to September 2003, and again from September 2007 to August 2011. Before she resigned from her employment, Guise was a full-time clearing service associate. Beginning in the latter part of 2009, Guise's supervisor treated Guise in a manner that Guise thought was intended to belittle and embarrass her in front of her coworkers. Specifically, when Guise posed questions and suggestions during staff meetings, her supervisor disagreed with Guise, dismissed Guise's comments, and spoke slowly to her. Guise reported this conduct to a higher-level manager, who advised Guise that he does not tolerate that type of conduct. But Guise felt that the supervisor's conduct did not change after this report. Subsequently, Guise's work group relocated to a different floor, and Guise was assigned a desk beside her supervisor. This seating arrangement made Guise uncomfortable.

Guise also experienced difficulties with other coworkers. On one occasion in 2007, a coworker told Guise that she had “f**ked up.” Guise reported this to her supervisor, and the coworker apologized and explained that he “was just kidding.” In early 2011, a coworker called Guise “dumb.” On another occasion, the same coworker became upset and used vulgar language when Guise did not bring the coworker food for lunch. Guise did not report these incidents to a supervisor, but she told the coworker that the comments were inappropriate. The comments ceased thereafter. Guise also noticed coworkers following her to the bathroom beginning in February 2011.

On May 13, 2011, Guise submitted a letter to AEIS explaining her harassment and discrimination concerns. Around that same time, Guise was approved for paid medical leave through July 8, 2011 for depression and anxiety. AEIS conducted and completed its investigation of Guise’s harassment complaint in July 2011. AEIS found that, since fall 2007, Guise had reported to her supervisor three or four negative incidents involving coworkers, and those conflicts had been resolved. AEIS concluded that Guise was not subject to ongoing harassment or discrimination by her coworkers and supervisors.

Guise did not return to work or provide medical documentation to AEIS supporting an extension of her medical leave beyond July 8, 2011. On August 3, 2011, AEIS advised Guise via letter that, as of July 9, she was no longer approved for medical leave and disability pay. But the letter stated that she could apply for unpaid medical leave and her position would not be filled before August 17, 2011. On August 4, 2011, Guise sent an e-mail to her supervisor stating: “I will not be returning . . . therefore please move forward terminating my employment.” The next day, Guise advised AEIS that she

had resigned because of “intentional harassment, discrimination and abusive behavior by . . . managers and coworkers.”

Guise subsequently applied for unemployment benefits. A Minnesota Department of Employment and Economic Development (department) adjudicator determined that Guise quit her employment without a good reason caused by her employer and, therefore, she is ineligible to receive unemployment benefits. Guise appealed. After holding a telephonic hearing, the ULJ determined that Guise quit her employment without a good reason caused by her employer or medical necessity. The ULJ affirmed the department’s determination. Guise sought reconsideration and submitted additional evidence, including copies of a June 29, 2011 letter from her physician. The ULJ declined to consider the additional evidence because Guise did not provide a reason for not submitting the documents prior to the hearing and the additional evidence would not have changed the outcome of the decision. The ULJ affirmed his earlier decision, and this certiorari appeal followed.

D E C I S I O N

When reviewing the decision of a ULJ, we 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 conclusion, decision, findings, or inferences 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.” Minn. Stat. § 268.105, subd. 7(d) (2010).

A ULJ's factual findings are viewed in the light most favorable to the decision. *Schmidgall v. FilmTec Corp.*, 644 N.W.2d 801, 804 (Minn. 2002). They will not be disturbed on appeal if there is evidence that substantially tends to sustain those findings. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). Whether the ULJ's findings establish that the applicant falls within a statutory exception to ineligibility presents a question of law, which we review de novo. *Nichols v. Reliant Eng'g & Mfg., Inc.*, 720 N.W.2d 590, 594-95 (Minn. App. 2006).

It is undisputed that Guise quit her employment at AEIS. A person who quits her employment generally is ineligible to receive unemployment benefits, but there are several statutory exceptions to this rule. Minn. Stat. § 268.095, subd. 1 (2010). The ULJ considered two of these exceptions: an applicant who quits because of a good reason caused by her employer, *id.*, subd. 1(1), and an applicant who quits because the applicant's serious illness or injury made it medically necessary to quit, *id.*, subd. 1(7)(i). The ULJ concluded that, because neither exception is satisfied, Guise is ineligible to receive unemployment benefits. We address each of these exceptions in turn.

A.

An employee who quits may be eligible for unemployment benefits if the employee "quit the employment because of a good reason caused by the employer." *Id.*, subd. 1(1). A good reason caused by the employer is one "(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). This

exception applies only if the employee complains to the employer about the adverse condition and affords the employer a reasonable opportunity to cure the condition. *Id.*, subd. 3(c) (2010).

Guise contends that her supervisor and coworkers intentionally harassed, bullied, and discriminated against her based on her race and gender, thereby forcing her to resign. Harassment may constitute a good reason to quit employment if the employer has notice and “fails to take timely and appropriate measures to prevent harassment by a co-worker.” *Nichols*, 720 N.W.2d at 595. But an employee does not have a good reason to quit caused by the employer when there is merely discord between the employee and a supervisor or when the employee is “simply frustrated or dissatisfied with his [or her] working conditions.” *Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 14 (Minn. App. 1986); accord *Bongiovanni v. Vanlor Invs.*, 370 N.W.2d 697, 699 (Minn. App. 1985) (concluding that alleged harassment was properly viewed as personality conflict). A good reason caused by the employer is one that is “real, not imaginary, substantial not trifling, and reasonable, not whimsical.” *Haskins v. Choice Auto Rental, Inc.*, 558 N.W.2d 507, 511 (Minn. App. 1997) (quotation omitted).

Although the ULJ acknowledged that Guise had uncomfortable and negative interactions with her supervisor and coworkers, the ULJ rejected Guise’s allegations of ongoing harassment and discrimination. Our careful review of the record regarding these troubling allegations identifies ample support for the ULJ’s determination. Even accepting Guise’s testimony as true, as the ULJ did here, the record demonstrates that Guise’s negative interactions with her supervisor and coworkers were largely attributable

to personality conflicts, which do not constitute a good reason to quit attributable to the employer. *See e.g., Trego v. Hennepin Cnty. Family Day Care Assoc.*, 409 N.W.2d 23, 26 (Minn. App. 1987). The specific instances of inappropriate conduct by coworkers that Guise identified were isolated incidents that generally were resolved and were not repeated, without Guise reporting them to a supervisor. In addition, AEIS investigated Guise's harassment complaint and concluded that the incidents that Guise reported to her supervisor had been resolved and that Guise had not been the target of ongoing harassment or discrimination by her coworkers or supervisors.

Guise argues that the ULJ improperly relied on the employer's statement that she quit for "personal reasons." But the record does not reflect that this statement formed the basis of the ULJ's decision; indeed, the ULJ's decision does not mention this statement. Rather, the ULJ credited Guise's testimony but nonetheless concluded that she had not demonstrated a good reason to quit attributable to the employer. Moreover, the evidence reasonably reflects that Guise quit because of personality conflicts with a supervisor and coworkers, which sustains AEIS's characterization of Guise's resignation as being attributable to "personal reasons."

Guise also contends that the ULJ's decision reflects the ULJ's bias against her and in favor of AEIS. But Guise does not identify any evidence to support her assertion of bias, and there is a dearth of evidence in the record to support this assertion. To the contrary, the ULJ substantially credited Guise's evidence. Therefore, this argument lacks merit.

Because Guise was not subject to a hostile work environment that would compel a reasonable employee “to quit and become unemployed rather than remaining in the employment,” the ULJ properly concluded that Guise did not quit her employment for a good reason caused by her employer. *See* Minn. Stat. § 268.095, subd. 3(a)(3).

B.

An employee may be eligible for unemployment benefits if the employee quits because of a “serious illness or injury [that] made it medically necessary that the [employee] quit.” *Id.*, subd. 1(7)(i). “This exception only applies if the [employee] informs the employer of the medical problem and requests accommodation and no reasonable accommodation is made available.” *Id.*

The ULJ determined that Guise does not fall within this exception. The record supports this determination. Although it is undisputed that Guise experienced depression and anxiety that she and her physician attributed to her employment, and it is undisputed that Guise informed her employer of her medical conditions when she requested medical leave, the other requirements of Minn. Stat. § 268.095, subd. 1(7)(i), are not satisfied. Guise did not present any evidence that her anxiety disorder and depression made it medically necessary for her to quit. Rather, the evidence establishes that Guise’s physician advised her in June 2011 that she could return to work in July 2011. Moreover, Guise requested and received a medical leave to address her anxiety and depression. Although AEIS provided Guise an opportunity to extend her medical leave, Guise neither requested a longer leave nor provided her employer with the necessary medical documentation to extend her medical leave. Instead she resigned. Because Guise’s

employer reasonably accommodated the only request that Guise made, the ULJ's conclusion that the medical-necessity exception does not apply is not erroneous. *See id.*

Guise argues that the ULJ ignored new evidence that she submitted with her request for reconsideration, namely, a more recent letter from her physician. We review a ULJ's denial of a request for an additional evidentiary hearing for an abuse of discretion. *Skarhus*, 721 N.W.2d at 345. A ULJ must order an additional evidentiary hearing if newly submitted evidence likely would change the decision's outcome and good cause exists for not previously submitting the evidence. Minn. Stat. § 268.105, subd. 2(c) (2010). An additional evidentiary hearing must be held also if the newly submitted evidence would show that the evidence at the initial hearing was false and the decision likely was affected by the false evidence. *Id.* Here, the ULJ determined that Guise's newly submitted evidence does not meet these requirements. Guise provides no explanation addressing why her additional evidence was not previously submitted. Moreover, the newly submitted evidence does not suggest that evidence at the initial hearing was false, and it would not have affected the outcome of the case. Guise did not provide her employer with the more recent letter from her physician, and that letter supports the ULJ's decision because it demonstrates that Guise could return to work as of June 29, 2011. Accordingly, the ULJ did not abuse its discretion by declining to consider Guise's newly submitted evidence.

In sum, the evidence sustains the ULJ's factual findings, and the ULJ correctly applied the law. The ULJ's determination that Guise is ineligible to receive

unemployment benefits is not erroneous because Guise quit her employment and she does not satisfy a statutory exception to ineligibility.

Affirmed.