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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-2044**

Chad Biske,
Relator,

vs.

Grassmaster Professional Groundskeeping,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed August 6, 2012
Affirmed
Willis, Judge***

Department of Employment and Economic Development
File No. 28424869-3

Chad L. Biske, Brainerd, Minnesota (pro se relator)

Grassmaster Professional Groundskeeping, Crosslake, Minnesota (respondent)

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

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UNPUBLISHED OPINION

WILLIS, Judge

Relator challenges the decision of the unemployment-law judge (ULJ) that he is ineligible for unemployment-compensation benefits because he quit employment, arguing that he aggravated a pre-existing neck injury while at work, was absent from work only to receive medical treatment, and intended to return to work thereafter. We affirm.

FACTS

Respondent Grassmaster Professional Groundskeeping employed relator Chad Biske from April 4, 2008, to June 1, 2011. At a hearing before a ULJ, the parties disagreed about whether Biske's conduct showed that he quit employment on June 1, 2011, or merely temporarily left work with the intention to return after he received medical treatment. The ULJ ruled that Biske's actions constituted a quit from employment and affirmed her decision upon Biske's request for reconsideration.

When Biske was hired by Grassmaster to work as a groundskeeper, he had a pre-existing neck injury. According to Biske, he further injured his neck at work on May 31, 2011, while he was cutting and removing trees following a storm. On the next day, Biske returned to work but by 4:00 p.m. could not continue because of his neck problem. He told one of the company owners, Eli Baca, of his condition and was told to take the day off to seek medical treatment. Biske went to the doctor on June 2.

According to Biske, his doctor referred him for a magnetic-resonance-imaging test (MRI) and told Biske that he could not return to work until Biske received the MRI test results. Biske received the MRI test results on June 9, and he immediately contacted

Grassmaster and spoke separately with the company's owners, brothers Jason and Eli Baca. Biske testified that after he spoke with the Baca brothers on June 9, he hoped that Grassmaster would contact him about returning to work. When Grassmaster did not, Biske assumed that he was discharged from employment.

Eli Baca testified that he told Biske on June 1 that he still had a job and encouraged Biske to "take Thursday and Friday off and go see a chiropractor, think about it a little bit[,] and come back on Monday." But Biske responded, "[N]o, I'm quitting. I'm putting in my two-week's notice." Baca also testified that during his June 9 conversation with Biske, Biske confirmed that he quit his employment. Baca testified that after June 9, the company had no further contact with Biske.

In ruling for Grassmaster, the ULJ determined that "the decision to end the employment on June 1, 2011, was Biske's." Regarding the conflicting testimony, the ULJ found that "[t]o the extent their testimony differed, the employer's testimony was more credible than that of Biske. Biske's testimony was self serving and vague, and the employer described a more logical chain of events."

D E C I S I O N

The evidence supports the ULJ's determination that Biske quit his employment.

When reviewing a ULJ's decision, 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 were prejudiced because the findings, inferences, conclusion, or decision 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).

Whether an employee voluntarily quit is a question of fact. *Nichols v. Reliant Eng’g & Mfg. Inc.*, 720 N.W.2d 590, 594 (Minn. App. 2006). On review of a ULJ’s decision, this court views the ULJ’s factual findings in the light most favorable to the decision and gives deference to the ULJ’s credibility determinations. *Stagg v. Vintage Place, Inc.*, 796 N.W.2d 312, 315 (Minn. 2011); *Skarhus v. Davanni’s Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006).

“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) (2010). Generally, an employee who quits employment is ineligible to receive unemployment benefits. Minn. Stat. § 268.095, subd. 1 (2010). The ULJ addressed two possible exceptions to this rule but concluded that neither applied to Biske. Under the first, an exception is made if the employee quit for good reason caused by the employer. *Id.* at subd. 1(1). The ULJ found that there was “no evidence that Grassmaster did or failed to do anything that caused Biske to quit his employment[.]” Under the second, an exception is made if “serious illness or injury made it medically necessary that the applicant quit[.]” *Id.* at subd. 1(7). But “[t]his exception only applies if the applicant informs the employer of the medical problem and requests accommodation and no reasonable accommodation is made available.” *Id.* Regarding the second exception, the ULJ found that while Biske quit his employment because “the work aggravated a neck

injury,” “[t]he evidence does not show that it was medically necessary for Biske to quit his employment” or that Biske requested accommodation from Grassmaster before quitting.

The evidence substantially supports the ULJ’s findings, which, in turn, support her determination that Biske quit his employment and was therefore not entitled to receive unemployment-compensation benefits. Although Biske testified that he did not quit work and intended to return, evidence provided by Grassmaster discredited this testimony, and the ULJ made credibility findings in favor of Grassmaster. This court must defer to a ULJ’s credibility determinations. *See Bangtson v. Allina Med. Grp.*, 766 N.W.2d 328, 332 (Minn. App. 2009) (“Credibility determinations are the exclusive province of the ULJ and will not be disturbed on appeal.”). Biske made a clear statement of his intention to quit and rejected Grassmaster’s offer to take time off to seek medical treatment. Biske’s failure to maintain contact with Grassmaster during the pendency of his time off work supports this conclusion. We find no error in the ULJ’s decision that Biske voluntarily quit his employment and was therefore not entitled to receive unemployment-compensation benefits.

Affirmed.