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NO. A09-1265

State of Minnesota
In Court of Appeals

MEDICAL PROFESSIONALS, LLC,

Relator,

vs.

SARA V. WERNER,

Respondent,

and

DEPARTMENT OF EMPLOYMENT
AND ECONOMIC DEVELOPMENT,

Respondent.

**RELATOR MEDICAL PROFESSIONALS, LLC'S
BRIEF AND APPENDIX**

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The appendix to this brief is not available for online viewing as specified in the *Minnesota Rules of Public Access to the Records of the Judicial Branch*, Rule 8, Subd. 2(e)(2).

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LEGAL ISSUE

1. Whether the applicant for benefits, Sara Werner, quit employment because of a good reason caused by Medical Professionals, LLC?

STATEMENT OF THE CASE

On April 2, 2008, Respondent Sara Werner (“Werner”) quit her employment with Relator Medical Professionals, LLC (“Medical Professional”). After Werner submitted a claim for unemployment compensation benefits, the Minnesota Department of Employment and Economic Development (the “Department”) issued a determination of ineligibility finding that Medical Professionals’ decision to move its business from Bloomington to St. Paul did not have a substantial negative effect on Werner that would cause the average reasonable worker to quit. (RA – 1.)¹ Werner appealed the initial determination to the Department.

On February 27, 2009, Unemployment Law Judge Brian Eng (the “ULJ”) issued a determination that Werner quit her employment with Medical Professionals for good reason caused by the employer and thus is eligible to receive unemployment benefits. (RA - 5.) The ULJ affirmed that decision upon Relator’s request for reconsideration by decision dated June 10, 2009. (ULJ June 10, 2009 Order, RA - 13.)

The matter is now before this Court on a Writ of Certiorari under applicable statutes and court rules. Minn. Stat. § 268.105, subd. 7(a); Minn. R. Civ. App. P. 115.

¹ References to RA - ____ refer to the Relator’s Appendix.

STATEMENT OF THE RELEVANT FACTS

The facts of this case are not in dispute. Medical Professionals employed Werner as a billing specialist from March 2005 through April 2, 2008. (T. 9-10).² Werner had an annual salary of \$38,500 and was a full-time employee for Medical Professionals. (T. 10). At the time Medical Professionals hired Werner, and throughout her employment, she lived in Good Thunder, Minnesota. (T. 11). Throughout most of Werner's tenure at Medical Professionals, the business was located in Bloomington and Werner's roundtrip commute time from Good Thunder was over 3 hours and consisted of 170 miles roundtrip. (T. 11, 16).

In January of 2008, Medical Professionals moved its offices to St. Paul for business reasons. (T. 18). As a result of the move, Werner's roundtrip commute time increased by approximately 50 minutes and 34 miles. (T. 14). In addition, Werner incurred increased commuting costs of approximately \$6-8 per day due to the high gas prices at the time (approximately \$4.00 a gallon). (T. 12, 15).

Before Werner quit, she requested additional compensation for the increased commuting cost or alternatively that she could work from home part of the week. (T. 16). Medical Professionals declined to grant her request. (T. 16). Thereafter, Werner quit her employment on April 2, 2008 because she now believed her commute was too long and too costly. (T. 17).

² References to "T. ___" refer to the transcript of the unemployment compensation appeal hearing of February 25, 2009.

ARGUMENT

A. SUMMARY OF ARGUMENT

It is fundamentally unfair to hold that Medical Professionals' decision to relocate within the Twin Cities metropolitan area for business reasons entitles Werner to quit her gainful employment and receive unemployment benefits. In essence, such a decision would give all employees who experience increased commute time and expenses as a result of employer relocation the ability to quit and receive unemployment benefits.

This case is very straightforward and only requires a statutory interpretation as to whether Werner had a good reason to quit her employment caused by Medical Professionals. Simply put, where Werner had already voluntarily chosen to drive 85 miles into the metropolitan area for work, it is unreasonable for Werner to choose unemployment over driving an additional 17 miles to remain employed. In this economy, the average, reasonable worker would not choose unemployment over driving an additional 17 miles to work.

B. STANDARD OF REVIEW

The standard of review for unemployment law judge decisions is specified in Minn. Stat. § 268.105, subd. 7(d):

The Minnesota Court of Appeals may affirm the decision of the unemployment law judge or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioner may have been 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.

Here, the sole question before the court is whether Werner quit with good reason caused by the employer. (T. 4). This issue is a legal question subject to de novo review. Nichols v. Reliant Eng'g & Mfg., Inc., 720 N.W.2d 590, 594 (Minn. Ct. App. 2006). For the reasons set forth below, the ULJ's conclusion that Werner quit with good reason caused by the employer is arbitrary or capricious.

C. ARGUMENT FOR INELIGIBILITY

The "public purpose of Minnesota's Unemployment Insurance Program is to provide temporary financial support to workers who lose their jobs through no fault of their own." Medek v. St. Peter Church and School, 2007 WL 3347476, at *1 (Minn. Ct. App. Nov. 13, 2007) (internal quotations omitted). Thus, where an employee voluntarily quits her employment, the employee must be able to show good cause for quitting that is attributable to the employer in order to obtain unemployment benefits. Minn. Stat. § 268.095, subd. 1(1). "A good reason caused by the employer" is defined as 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.

The standard for determining good cause to quit is one of reasonableness as applied to the average man or woman, and not to the supersensitive. Haskins v. Choice

Auto Rental, Inc., 558 N.W.2d 507, 511 (Minn. Ct. App. 1997). A “good cause” to quit is a reason that is “real, not imaginary, substantial not trifling, and reasonable, not whimsical; there must be some compulsion produced by extraneous and necessitous circumstances.” Id. (internal citations and quotations omitted). Moreover, even a good personal reason to quit does not equate with good cause. Edward v. Sentinel Management Co., 611 N.W.2d 366, 368 (Minn. Ct. App. 2000).

1. The Additional Distance Would Not Cause the Average, Reasonable Employee to Quit

It is no secret that the state of the economy and business in general is in a state of turmoil. Every day there are news stories about companies laying off portions of their workforce. (RA – 10-11). In light of this unstable economy, it simply cannot be said that an average, reasonable worker would voluntarily choose to become unemployed rather than choose to drive an additional 17 miles to work in order to continue their gainful employment. Indeed, the Minnesota Court of Appeals has already determined that commuting distances of 27 miles and 22 miles to work are not unreasonable. See Franssen v. Precision Design, Inc., 2001 WL 766853, at *1-2 (Minn. Ct. App. July 10, 2001) (holding that a commute of 27 miles was not unreasonable and that the employee should be willing to commute to most locations throughout the metropolitan area); Preiss v. Commissioner of Economic Security, 347 N.W.2d 74, 76 (Minn. Ct. App. 1994) (finding a commute of 22 miles reasonable). Moreover, an employee’s job dissatisfaction due to commute time or transportation issues does not constitute good reason for quitting. See, e.g., Colglazier v. University of Minnesota, 2008 WL 2885832, at *2 (Minn. Ct.

App. July 29, 2008) (holding where employee quit in part because his new work location was more difficult for him to commute to work did not constitute good cause); see also Hill v. Contract Beverages, Inc., 240 N.W.2d 314, 316 (Minn. 1976) (“[I]n the absence of contract or custom imposing an obligation of transportation upon the employer, transportation is usually considered the problem of the employee.”).

Here, on her own volition, Werner chose to commute the considerable distance from her home in Good Thunder, Minnesota to the Twin Cities area for employment. (T. 11, 16). Accordingly, Werner should be considered no different than any other employee working in the Twin Cities area. Thus, because Werner had already voluntarily chosen to drive 85 miles into the metropolitan area for work, it is unreasonable for Werner to choose unemployment over driving an additional 17 miles to remain employed. See Colglazier, 2008 WL 2885832, at *2 (quitting in part because new work location resulted in more difficult commute did not constitute good cause). To hold otherwise would put an unreasonable burden on employers of having to pay unemployment benefits simply by relocating **within the metropolitan area**. In essence, such a decision would mean anyone living on the west side of Bloomington would be entitled to quit and receive unemployment benefits once Medical Professionals relocated to St. Paul because their commute would have necessarily increased in a similar fashion to Werner’s commute.

Moreover, such a holding would lead to the absurd result of individual employees within the same company, doing the same job, being treated differently under the Unemployment Statutes based solely on where they reside. For instance, if a company moved from St. Paul to Minneapolis, all of the employees who had an increased commute

as a result of the relocation would be entitled to quit and receive unemployment whereas the employees who had the same or lesser commute times would not be entitled to quit and receive unemployment benefits. Certainly, the legislature did not intend for individual employees to be treated differently under the Unemployment Statutes based solely on where they reside. See Work Connection, Inc. v. Bui, 749 N.W.2d 63, 71 (Minn. Ct. App. 2008) (“In seeking for the meaning of a statute, it is proper to consider the result which would follow a particular construction. The legislature cannot be presumed to intend to bring about an absurd or unjust condition.”) (internal citations and quotations omitted).

While one can certainly understand that Werner did not want to make a long commute longer, her valid personal reason for not wanting to work at the new location is legally insufficient to entitle her to receive employment benefits. See Hahn v. Adecco USA Inc., 2009 WL 113375, *2 (Jan. 20, 2009) (holding that where employee who worked in Shakopee turned down new work assignment in Eden Prairie³, the employee did not have good reason to quit caused by the employer); see also Edward, 611 N.W.2d at 368 (Minn. Ct. App. 2000) (“A good personal reason does not equate with good cause.”) (internal citations and quotations omitted).

In sum, it is not Medical Professionals’ fault that Werner chose to commute from Good Thunder to the Twin Cities metro area for employment. Thus, the increased commute as a result of the relocation is not adverse enough to compel an average,

³ The employee claimed that the new job assignment was actually in Minnetonka and thus further away than the Eden Prairie location. The Court, however, held that even if this fact were true, it would not change the outcome. Hahn, 2009 WL 113375, at *2.

reasonable employee to quit and become unemployed rather than retain their gainful employment.

2. The Additional Costs of the Commute Does Not Provide Good Reason to Quit.

Another way to analyze whether Werner was compelled to quit is to consider whether her effective decrease in compensation, due to the additional cost of the commute, provided good reason to quit. Werner testified that she had to pay an additional \$6 to \$8 a day due because of the new commute. (T. 15). Assuming Werner had an increased cost of \$40 a week, and considering her annual salary of \$38,500, Werner would have an effective pay decrease of approximately 4-5% per year. This Court has held that this type of pay decrease is not a good reason caused by the employer for an employee to quit. See e.g., Dachel v. Ortho Met, Inc., 528 N.W.2d 268, 270 (Minn. Ct. App. 1995) (holding that a wage reduction of approximately 10% does not provide employee with good cause to quit).

Here, although Applicant requested additional compensation to cover the increased commute cost, it was reasonable for Medical Professionals to deny her request. To hold otherwise, Medical Professionals would have had to pay additional compensation to every employee who was subject to an increased commute after the relocation. To burden an employer with such expense is absurd and illogical. Therefore, Werner's effective pay decrease of 4-5% per year does not constitute good reason to quit. See Dachel, 528 N.W.2d at 270.

CONCLUSION

For the foregoing reasons, Medical Professionals respectfully requests that the Court reverse the Unemployment Law Judge and hold that Medical Professionals' decision to relocate from Bloomington to St. Paul would not compel the average, reasonable person to choose unemployment rather than continue gainful employment.

Dated: October 5, 2009.

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