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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-2049**

Elizabeth Moldrem,
Relator,

vs.

PAL Management, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed August 19, 2013
Affirmed
Rodenberg, Judge**

Minnesota Department of Employment and Economic Development
File No. 30042065-3

Elizabeth A. Moldrem, St. Paul, Minnesota (pro se relator)

Kristin H.B. Parker, Minneapolis, Minnesota (for respondent PAL Management, Inc.)

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

Considered and decided by Rodenberg, Presiding Judge; Stoneburner, Judge; and
Connolly, Judge.

UNPUBLISHED OPINION

RODENBERG, Judge

Relator appeals from a decision of an unemployment law judge (ULJ) that relator is ineligible for unemployment benefits because she quit without good reason caused by her employer. We affirm.

FACTS

Relator Elizabeth Moldrem worked for respondent PAL Management Inc. (PAL) as a branch-manager-in-training from May 21 until July 19, 2012. She had 10 years of banking industry experience and 18 years overall of management experience prior to working for PAL. Had she completed her training, relator would have become the manager of a different branch.

During the training period, relator became dissatisfied with PAL's business practices and the training she was receiving. She reported her concerns to respondent's district manager. Specifically, relator believed that the manager of the branch at which she was training was inadequately receiving and handling confidential client information, thereby exposing the company to the risk of fines. She believed that the branch manager was taking inadequate precautions with the counting of cash. She also believed that the training procedures were inadequate and unstructured, and that the branch manager was lackadaisical and unprofessional. Relator believed that the branch manager disliked her because she was being paid a significantly higher salary than he was.

In an e-mail she sent to the district manager on July 11, relator requested a transfer to complete her training at a different branch. On July 14, the branch manager who was

training relator issued two written reprimands to her. One reprimanded relator for clocking in late on several occasions, and the other reprimanded her for bypassing the branch manager and discussing company-policy compliance directly with branch employees. Relator met with the district supervisor and a human resources director on July 16. At the meeting, relator's concerns and transfer request were discussed.

Relator testified that, at the end of the meeting, her request for a transfer was denied. The district manager and human resources supervisor testified that they had informed relator at the close of the meeting that they would consider her transfer request but that they instructed her to continue working at her assigned branch in the meantime. They testified that they have been working to address the branch manager's violations of the company policies with respect to security and client confidentiality.

Relator decided not to return to work following the July meeting. Relator quit because of what she described as concerns about "poor working conditions" that she expressed to upper management but felt were not taken seriously.

After she was denied unemployment benefits by respondent Minnesota Department of Employment and Economic Development (DEED), relator sought review of her eligibility for unemployment benefits by a ULJ. Following a telephonic hearing, the ULJ determined that relator is ineligible for unemployment benefits because she quit her employment without a good cause. The ULJ affirmed the decision upon relator's request for reconsideration. This appeal by writ of certiorari followed.

DECISION

On appeal from the decision of a ULJ, this court may reverse or modify the ULJ's decision if the substantial rights of the petitioner may have been prejudiced because the ULJ's factual determinations are "unsupported by substantial evidence in view of the entire record as submitted" or if the decision was affected by an error of law. Minn.Stat. § 268.105, subd. 7(d)(4), (5) (2012). "Substantial evidence" is defined as "1. Such relevant evidence as a reasonable mind might accept as adequate to support a conclusion; 2. [m]ore than a scintilla of evidence; 3. [m]ore than some evidence; 4. [m]ore than any evidence; and 5. [t]he evidence considered in its entirety." *Cable Commc'ns Bd. v. Northwest Cable Commc'ns P'ship*, 356 N.W.2d 658, 668 (Minn. 1984) (addressing the standard of review for administrative agency actions); *see also* Minn. Stat. § 14.69 (2012) (establishing the standards of review for administrative agency actions, and containing language that is virtually identical to that found in Minn. Stat. § 268.105, subd. 7(d)); Minn. Stat. § 645.17(4) (2010) ("[W]hen a court of last resort has construed the language of a law, the legislature in subsequent laws on the same subject matter intends the same construction to be placed upon such language.").

We defer to the ULJ's credibility determinations if they are supported by substantial evidence. *Compare Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 345 (Minn. App. 2006) (holding that credibility determinations are "the exclusive province of the ULJ and will not be disturbed on appeal"), *with Wichmann v. Travalia & U.S. Directives, Inc.*, 729 N.W.2d 23, 29 (Minn. App. 2007) (holding that the ULJ's credibility determination must also be supported by substantial evidence) (citing *Yswsf v. Teleplan*

Wireless Servs., Inc., 726 N.W.2d 525, 532–33 (Minn. App. 2007) (upholding a ULJ’s credibility determination after subjecting it to substantial-evidence review)).

Under Minnesota law, an employee who quits voluntarily is not eligible for unemployment benefits unless a statutorily enumerated exception applies. Minn. Stat. § 268.095, subd. 1 (2012). An applicant is eligible for unemployment benefits if the applicant quit the employment “because of a good reason caused by the employer.” *Id.*, subd. 1(1). The reason an employee quits is a question of fact. *Embaby v. Dep’t of Jobs & Training*, 397 N.W.2d 609, 611 (Minn. App. 1986). But whether that reason amounts to a good reason caused by the employer is a question of law. *Rootes v. Wal-Mart Assocs., Inc.*, 669 N.W.2d 416, 418 (Minn. App. 2003).

That an applicant merely has reasonable personal reasons for quitting is insufficient to satisfy Minn. Stat. § 268.095, subd. 1(1). *Edward v. Sentinel Mgmt. Co.*, 611 N.W.2d 366, 368 (Minn. App. 2000), *review denied* (Minn. Aug. 15, 2000). Instead, a “good reason caused by the employer” is statutorily defined:

(a) A good reason caused by the employer 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.

....

(c) 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.

Dissatisfaction with a manager does not constitute a good reason to quit caused by an employer. *Trego v. Hennepin Cnty. Family Day Care Ass'n*, 409 N.W.2d 23, 26 (Minn. App. 1987). Nor do simple personality conflicts or even irreconcilable differences with co-workers and supervisors. *Foy v. J.E.K. Indus.*, 352 N.W.2d 123, 124–25 (Minn. App. 1984), *review denied* (Minn. Nov. 8, 1984). Harassment by a co-worker may constitute a good reason to quit caused by an employer, but only if the employee first brings the issue to the attention of the employer and the employer then “fails to take timely and appropriate measures” to prevent further harassment. *Nichols v. Reliant Eng'g & Mfg., Inc.*, 720 N.W.2d 590, 595 (Minn. App. 2006).

Here, relator quit because of her dissatisfaction with the training she was receiving, her concerns about the branch manager’s handling of information and cash, and some personal friction with the branch manager who was training her. If relator had remained and successfully completed her training, she would have become the branch manager of a different location. Dissatisfaction of the sort experienced by relator does not rise to the level of a good reason to quit caused by the employer. *See Trego*, 409 N.W.2d at 26; *Foy*, 352 N.W.2d at 124–25.

Although relator states that she was told at the meeting that she would not be transferred, the district manager and human resources director testified otherwise. The ULJ credited their testimony over relator’s testimony on this question. We defer to the ULJ’s credibility determination. *Wichmann*, 729 N.W.2d at 29; *Skarhus*, 721 N.W.2d at 345. Therefore, even if the conflict between relator and the branch manager were viewed

as rising to the level of harassment, relator did not afford the employer an opportunity to take timely and appropriate measures to address the behavior because relator did not return to work following the meeting at which she raised these issues with upper management. *See Nichols*, 720 N.W.2d at 595. Relator has not demonstrated that the circumstances of her departure from employment with PAL would entitle her to collect unemployment benefits under Minn. Stat. § 268.095, subds. 1(1), 3.

Relator also challenges the conduct of the hearing, arguing that the ULJ exhibited partiality. The transcript of the hearing establishes that relator was given ample opportunity to develop the facts and her side of the argument, largely at the prompting and with the assistance of the ULJ. Relator's direct testimony amounts to more than half of the pages of testimony in the hearing transcript. The ULJ permitted relator to testify at length about the concerns that she had working for PAL and the steps she had taken to bring her concerns to PAL's attention. When not open-ended, the ULJ's questions were directed at clarifying the testimony and developing facts relevant to relator's argument that she was eligible for unemployment benefits because she had quit for a good reason caused by the employer. We are satisfied that relator received a fair hearing. Therefore, she is not entitled to relief on this ground.

Finally, relator complains that the ruling on her request for reconsideration was issued more than 30 days after she made her request, despite a statement on the department's website indicating that the decision would be made within 30 days. Neither the statute nor the department's rules require the request for reconsideration to be decided within 30 days. *See* Minn. Stat. § 268.105, subd. 2 (2012); Minn. R. 3310.2901–.2924

(2011). While the delay in the order deciding relator's request for reconsideration is unfortunate, it does not provide a basis for reversal. Thus, relator is not eligible for unemployment benefits.

Affirmed.