

A-12-68

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STATE OF MINNESOTA  
IN COURT OF APPEALS

Shouna Thao,  
Relator

vs.

Command Center, Inc.,  
Respondent-Employer, and

Department of Employment and  
Economic Development,  
Respondent

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**RELATOR'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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## STATEMENT OF LEGAL ISSUES

- ▶ Where an employer informs an employee that her hours will be reduced by 50% or more, is the worker required to affirmatively complain and give the employer an opportunity to correct the reduction in hours before she can be considered to have a good reason to quit caused by the employer for purposes of Unemployment Insurance benefits?

*The ULJ ruled that under MINN. STAT. § 268.095, subd. 3(c), Relator is required to complain and give the employer a reasonable opportunity to correct the “adverse working condition” of reduced hours before she can quit with good cause.*

**Most apposite authorities:** MINN. STAT. § 268.095, subds. 1(1), 3(a), (c); MINN. STAT. § 268.031, subd. 2; *ROOTES V. WAL-MART ASSOCIATES, INC.*, 669 N.W.2d 416 (Minn. App. 2003); *PORRAZZO V. NABISCO, INC.*, 360 N.W.2d 662 (Minn. App. 1985).

## STATEMENT OF THE CASE

Relator Shouna Thao was hired by respondent Command Center, a staffing agency, as a staffing specialist to recruit job-seekers for a particular client. During her first several weeks, she worked from 32 to 40 hours a week. The staffing service lost the contract with the client and reduced Relator's hours to a maximum of 16 per week. Relator quit on August 31, 2011, due to this substantial reduction in hours.

Relator was granted Unemployment Insurance (UI) benefits on September 30, 2011. Respondent Department of Employment and Economic Development (DEED) made an initial determination that Relator had a good reason to quit caused by the employer because the employer had substantially reduced her work hours and pay.

Respondent employer appealed. Unemployment Law Judge (ULJ) Scott Mismash found that Ms. Thao's work hours had been reduced sufficiently for an average reasonable worker to quit. However, he determined that Relator had not quit for a good reason caused by the employer because she had failed to complain about her hours being reduced prior to quitting.

Relator requested reconsideration, and the ULJ affirmed his decision denying her claim for benefits on December 14, 2011. In his reconsideration decision, ULJ Mismash stated that Relator's reason for not complaining "does not eliminate the statutory requirement to do so and give the employer an opportunity to correct the issue."

Relator timely appealed to this Court.

## STATEMENT OF FACTS

The facts in this case are not in dispute. Relator started working for Respondent Employer (hereafter Respondent) Command Center, Inc., a temporary staffing service providing labor for different industries and businesses throughout the Twin Cities, on July 26, 2011. T. 15, 16. The parties agreed that Relator had been hired to recruit workers for a specific company, Twin City Bagel, which had a contract with Respondent. T. 21, 26.

The parties agreed that Twin City Bagel had planned to hire a significant number of new employees, whom Relator would be responsible for recruiting. T. 20, 23, 29.<sup>1</sup> Relator understood that she was supposed to work 32 hours a week until Twin City Bagel hired the additional staff; at that point, her hours “could go to 40 hours or even overtime.” T. 20, 30, 31. The parties agreed, and the ULJ found, that Relator worked approximately 32 to 40 hours per week for her first several weeks. T. 24; Add.-2 (findings of ULJ).

In the middle of August, 2011, Twin City Bagel “cancelled their orders” with Respondent. Exh. 3-11. Relator testified that the branch manager told her there was not much work for her to do and that he only needed her to come into work on Mondays and Fridays between 10:00 a.m. and 6:00 p.m. *Id.*, T. 17. The ULJ found that, as a result of the loss of the order from Twin City Bagel, Relator’s hours were reduced to 16 to 20 per

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<sup>1</sup> Relator testified that Respondent’s development specialist, Kris, told Relator at the time of hire that Twin City Bagel was going to hire 200 people. T. 20, 29. The employer’s witness questioned the figure of 200 but admitted that “we had been talking about 75.” T. 23.

week. *Id.*, Add.-2. Relator testified that she looked at her work schedule for the week following August 31, 2011, and it showed she would be working only three to four hours that week. T. 19. She resigned via email on August 31, stating:

The twin city had back down on us on the 2<sup>nd</sup> shift and the first shift is slow. There is no use for me being here for couples of people working there, and it not worth of you guys paying me to being here.

Exh. 2-5. The resignation was effective September 1. *Id.* Relator attempted to get Twin City Bagel to reinstate the contract, but did not specifically complain to Respondent about the reduced hours before quitting. T. 21. The record does not indicate whether Respondent replied to the email.

Relator applied for and was granted Unemployment Insurance benefits, but Respondent appealed. Unemployment Law Judge Scott Mismash reversed the award of benefits, concluding that because Relator had not complained to Respondent about her hours being cut and had neglected to give the employer “an opportunity to correct the adverse working conditions,” she had quit for reasons other than a good reason caused by the employer and was ineligible for UI. Add.-3.

Relator requested reconsideration on November 10, 2011. She indicated she’d had “no reasons to complain about anything.” App.-2. She stated that since her hours had been reduced by 50% or more, that was “reason enough to compel an average worker to quit rather than remain in employment.” App.-3. Specifically, she said she had not complained about the cut in hours to her manager, Mark B , for three reasons: 1)

during her interview for the job, she was told that the position existed “because of the Twin City Bagel account”; 2) Development Specialist Kris had told her that her salary was based on the Twin City Bagel account; and 3) it was her own supervisor, Mark B , who had “initiated the conversation about the reduction of my hours.” App.-9.

On December 14, 2011, ULJ Mismash affirmed his initial decision. Add.-7. He noted that Relator did “not dispute she did not complain about her reduction in hours.”

*Id.* He went on to say that her reason for not complaining “does not eliminate the statutory requirement to do so and give the employer an opportunity to correct the issue.”

Add.-7-8. He stated:

[I]t may be that a reasonable person would be compelled to quit in her circumstances. But because she did not complain to the employer and give the employer an opportunity to correct the matter, she did not quit because of a good reason caused by the employer.

Add.-8.

Relator filed a timely appeal to this Court. App.-1.

## ARGUMENT

### I. Standard of review and governing law

This Court reviews the decision of the ULJ as follows:

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.

MINN. STAT. § 268.105, subd. 7(d) (Supp. 2005).

In general, an applicant who quits a job is ineligible for all unemployment benefits.

MINN. STAT. § 268.095, subd. 1. However, an applicant is eligible if she quit the employment because of a good reason caused by the employer. *Id.* at subd. 1(1). A good reason caused by the employer 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). The above definition must be applied to the specific facts of each case. *Id.* at subd. 3(b). However,

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.

*Id.* at subd. 3(c).

Where the facts are established, whether an applicant quit for a good reason caused by the employer is a question of law subject to de novo review. *MUNRO HOLDING, LLC v. COOK*, 695 N.W.2d 379, 384 (Minn. App. 2005). Statutory construction is also a question of law in which this Court owes no deference to the agency's decision. *HIBBING EDUC. ASS'N v. PUBLIC EMPLOYMENT RELATIONS BD.*, 369 N.W.2d 527, 529 (Minn. 1985).

The Minnesota Unemployment Insurance laws are remedial in nature and must be applied in favor of awarding unemployment benefits. MINN. STAT. § 268.031, subd. 2. In determining eligibility or ineligibility for benefits, any statutory provision that would preclude an applicant from receiving benefits “must be narrowly construed.” *Id.*

**II. The ULJ exceeded his statutory authority by inserting the requirement into MINN. STAT. § 268.095, Subd. 3(a), that Relator complain to her employer and offer it an opportunity to “correct” the substantial reduction in her work hours and pay before her quit could be considered due to “a good reason caused by the employer.”**

The ULJ concluded that “it may be” that a reasonable person would be compelled to quit under the circumstances facing Relator in this case, in which her work hours had been reduced by at least fifty percent. Add.-8. However, the ULJ decided that because Relator “did not complain to the employer and give the employer an opportunity

to correct the matter, she did not quit because of a good reason caused by the employer.”

*Id.* The ULJ characterized the mandate to complain and allow for correction under these circumstances as a “statutory requirement.” Add.-7-8. The ULJ exceeded his statutory authority in imposing such a requirement, conflating two separate sections of the definition of a good reason to quit.

**A. A reduction in work hours of 50% or more is a good reason to quit caused by the employer under MINN. STAT. § 268.095, subs. 1(1) and 3(a).**

The ULJ conceded that “it may be” that an average, reasonable worker would be compelled to quit when faced with a 50% reduction in work hours, and therefore pay. Add.-8. This conclusion is well established by case law. In analyzing cases in which reductions in employees’ work hours or pay have occurred, neither this Court nor the Minnesota Supreme Court has imposed a requirement that employees complain about such reductions and offer employers the opportunity to correct them before good cause to quit employment can be established. Except in cases involving work performance issues, the Court has looked only at the amount of the reduction to determine if it constitutes a “substantial” one.

In *SCOTT V. THE PHOTO CENTER, INC.*, 306 Minn. 535, 536, 235 N.W.2d 616, 616-617 (Minn. 1975), the Minnesota Supreme Court found good cause to quit where an employee’s wages were cut 25 percent. The Court cited the “general rule that a substantial pay reduction gives an employee good cause for quitting.”

In *ROOTES V. WAL-MART ASSOCIATES, INC.*, 669 N.W.2d 416, 419 (Minn. App. 2003), this Court wrote that absent employee misconduct, “an employee may quit for a good reason caused by the employer if there was a substantial adverse change in wages, hours or other terms of employment.” The Court determined that “substantial” was defined as “considerable in importance, value, degree, amount or extent.” *Id.*, citing *The American Heritage Dictionary*. The Court in *ROOTES* found that the employee’s wage reduction, when combined with a change in hours, “was substantial.” It therefore determined that the employee had quit for a good reason caused by the employer. *Id.* See also *MCBRIDE V. LEVASSEUR*, 341 N.W.2d 299, 300 (Minn. App. 1983) (unilateral 30% pay reduction was substantial and employee’s quit was for good cause attributable to her employer); *SUNSTAR FOODS, INC. V. UHLENDORF*, 310 N.W.2d 80, 84 (Minn. 1981) (20-25% pay reduction was substantial, but less than 15% not sufficient to show good cause for a quit); *DANIELSON MOBIL, INC. V. JOHNSON*, 394 N.W.2d 251, 253 (Minn. App. 1986) (19% reduction in wages gave applicant good cause to quit attributable to employer); *DACHEL V. ORTHO MET, INC.*, 528 N.W.2d 268, 270 (Minn. App. 1995) (10% reduction in wages did not give employee good cause to quit). None of these decisions relies on any question of whether an applicant has complained prior to quitting.

The courts have noted only one circumstance in which a “substantial” reduction in pay alone does not give the employee a good reason to quit. In *COOK V. PLAYWORKS*, 541 N.W.2d 366, 369 (Minn. App. 1996), an employee’s demotion and accompanying

pay cut were the result of his inadequate job performance. The Court said that a substantial decrease in wages may not justify a choice to quit when the employer has made a demotion “after honestly assessing an employee’s skills.” The Court then remanded the case for a determination of the specific circumstances to determine whether the employee had good cause to quit his job. *Id.* at 370.

In the case at hand, Relator’s pay cut came about through no action on her part, nor any fault of her own. Because Relator quit after her employer had cut her hours, and therefore her pay, by more than fifty percent, she had a reason to quit that was directly related to the employment, for which the employer was responsible, and which would have compelled an average reasonable worker to quit. She therefore meets the requirements of MINN. STAT. § 268.095, subd. 3(a), which must be applied in every case. *See id.* at subd. 3(b).

The ULJ erred by combining with subd. 3(a) the requirement to complain in subd. 3(c), which is a separate provision. Under subd. 3(a), relator has shown that the reason for her quit is the substantial reduction of hours, a reason “that is directly related to the employment and for which the employer is responsible.” Subd. 3(a) contains no element of notice or complaint by the worker to the employer, because the good cause reason is by definition something “for which the employer is responsible.” Subd. 3(b) states that the analysis of subd. 3(a) “must be applied to the specific facts of each case.” There is no parallel provision mandating that the analysis of subd. 3(c) be applied to every case.

Subd. 3(c) addresses a specific circumstance, where the worker was “subjected to adverse working conditions by the employer.” The scope of this provision will be discussed in section II.B below. But there is no textual basis to read subd. 3(c) as an additional requirement on top of subd. 3(a), inserting the requirement to complain and wait a reasonable time into every scenario that already constitutes a good reason to quit under subd. 3(a). The ULJ’s decision conflates subd. 3(a) and subd. 3(c) under an erroneous theory of law.

**B. A reduction in work hours and pay is a term of employment of which the employer is *per se* aware and therefore is not the type of “adverse working condition” that requires an applicant to notify the employer before good cause for a quit may be found.**

MINN. STAT. § 268.095, subd. 3(a), defines a good reason caused by the employer for quitting as a reason that is directly related to the employment and for which the employer is responsible; that is adverse to the worker; and that would compel an average, reasonable worker to quit and become unemployed rather than remaining in the employment. Subdivision 3(b) requires that “the analysis required in paragraph (a) must be applied to the specific facts of each case.” Subdivision 3(c) adds the proviso that 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 they may be considered a good reason caused by the employer for quitting.

The ULJ does not address what he believes to be the limits, if any, to the first

clause of subdivision 3(c), which specifies that the requirement to complain applies “[i]f an applicant was subjected to adverse working conditions by the employer.” Any good reason to quit caused by the employer, by definition, must be “adverse to the worker.” MINN. STAT. § 268.095, subd. 3(a)(2). But if the requirement to complain applies in every case, the limiting condition, “[i]f an applicant was subjected to adverse working conditions by the employer,” is surplus language without effect. The legislature has directed that “[e]very law shall be construed, if possible, to give effect to all its provisions.” MINN. STAT. § 645.16.

The legislature has directed that the analysis in subd. 3(a) of § 268.095 be applied in every case, but it has not imposed a similar requirement with respect to subd. 3(c). *See* MINN. STAT. § 268.095, subd. 3(b). In another section of the same statute, the legislature created an exception to the quit disqualification where a worker quits one job in order to “accept other covered employment that provided substantially better terms and conditions of employment.” MINN. STAT. § 268.095, subd. 1(2). While the phrase “terms and conditions of employment” includes the entirety of the employment relationship, including compensation, the Legislature chose not to use this phrase in subd. 3(c). *See* GRUNOW V. WALSER AUTOMOTIVE GROUP LLC, 779 N.W.2d 577, 580 (Minn. App. 2010) (discussing scope of “terms and conditions”). In addition, the legislature has specifically directed that Unemployment Insurance law is liberally construed in favor of a grant of benefits, and that disqualification provisions are construed narrowly. MINN. STAT. §

268.031, subd. 2. Under these established rules of construction, “adverse working conditions” in subd. 3(c) cannot be read as covering every reason for quitting that is adverse to the worker; there must be a class of good reasons to quit that are “adverse to the worker” but do not constitute “adverse working conditions” that trigger the requirement to complain.

The statute does not define “adverse working conditions.” The standard definition of “conditions” in the plural is existing, surrounding or attendant circumstances. *See, e.g.,* AMERICAN HERITAGE DICTIONARY (2<sup>nd</sup> Coll. Ed. 1983) (“the existing circumstances”); [www.merriam-webster.com](http://www.merriam-webster.com) (“attendant circumstances”); [www.dictionary.com](http://www.dictionary.com) (“existing circumstances” from Random House dictionary and “external or existing circumstances” from World English Dictionary) (all sites consulted April 10, 2012). The relevant definition of “condition” in the singular is similarly “a particular mode of being of a person or thing; existing state; situation with respect to circumstances.” *See* [www.dictionary.com](http://www.dictionary.com) (definition from Random House dictionary); *see also id.* (“a particular state of being or existence; situation with respect to circumstances” from World English Dictionary); [www.merriam-webster.com](http://www.merriam-webster.com) (“a state of being”) (sites consulted April 10, 2012); BLACK’S LAW DICTIONARY (6<sup>th</sup> Ed. 1990) (“mode or state of being; state or situation”).

These definitions suggest that “adverse working conditions” refers to the existing or attendant circumstances under which the employee works, such as the physical or

social working environment. This is distinguished from an affirmative change imposed by the employer to the basic contractual *terms* of employment, such as the number of hours worked or the rate of pay. See *ROOTES*, 669 N.W.2d at 419 (“an employee may quit for a good reason caused by the employer if there was a substantial adverse change in wages, hours or other *terms of employment*”) [emphasis added]. As noted, elsewhere in the same statute, the legislature has provided an exception to disqualification where an applicant quits in order to accept work that offers substantially better “terms and conditions of employment.” MINN. STAT. § 268.095, subd. 1(2). In one case interpreting this clause, this Court discussed salary as “a single term” of employment, and discussed the “health-insurance related terms” of the two jobs at issue. *SYKES V. NORTHWEST AIRLINES, INC.*, 789 N.W.2d 253, 256-57 (Minn. App. 2010). In another, this Court listed the various factors considered in determining whether employment offered “substantially better terms and conditions” and cited an unpublished decision holding that “more modern working conditions” did not establish substantially better employment where the job duties were substantially the same and pay was less. *GRUNOW*, 779 N.W.2d at 580. These cases again indicate that “terms” refers to the contractual arrangements under which work is performed, including pay and benefits, while “working conditions” refers to other circumstances of employment, such as the work environment.

The distinction between working conditions and terms of employment is consistent with the rationale for the requirement to complain. An employer may not know that an

employee is being harassed or that the physical working environment is unsafe. The courts have therefore concluded that a reasonable employee whose “existing circumstances” include such adverse conditions would complain and give the employer a reasonable opportunity to correct the problem before quitting the employment. *See, e.g.,* LARSON V. DEP’T OF ECON. SEC., 281 N.W.2d 667, 669 (Minn. 1979) (employee who alleged harassment and had received expectation of assistance had duty to inform employer of continuing issues; otherwise employer had right to assume situation was corrected); HASKINS V. CHOICE AUTO RENTAL, 558 N.W.2d 507, 511 (Minn. App. 1997) (employee fulfilled duty to complain about unsafe working equipment). But the rationale for this requirement disappears when an employer affirmatively imposes the adverse circumstance, such as by reducing an employee’s hours; the employer knows about the change because it imposed it, and employers normally make such changes for reasons of economic necessity that a complaint from the employee is unlikely to reverse.

Most of the cases discussing the requirement to complain involve harassment. In NICHOLS V. RELIANT ENGINEERING & MFG., INC., 720 N.W.2d 590, 596 (Minn. App. 2006), for example, a worker who quit after repeated claims of harassment by a fellow worker was found to have quit for a good reason caused by the employer; the Court said that after “repeated documented complaints without seeing any *effective* action by the company, it was reasonable for relator not to expect any satisfaction to arise from her complaints” [emphasis in original]. The Court noted that harassment may constitute a

good reason to quit if the employer has notice and fails to take timely and appropriate measures to prevent harassment by a coworker. *Id.* at 595. *See also* PEPPY V. PHYLLIS WHEATLEY COMMUNITY CTR., 614 N.W.2d 750, 753 (Minn. App. 2005) (employer's failure to take timely and appropriate action on relator's complaint of sexual harassment gave relator a good reason caused by her employer to quit her job).

The issue in such cases is whether the employer was "aware or should have been aware" of the harassment. *MUNRO HOLDING, LLC V. COOK*, 695 N.W.2d 379, 387 (Minn. App. 2005). To establish an employer's awareness of harassment, the employee ordinarily must provide the employer with notice of the harassment. *MCNABB V. CUB FOODS*, 352 N.W.2d 378, 382 (Minn. 1984). Once an employer has notice of the harassment, it assumes an affirmative duty to investigate the complaint and take appropriate steps against the harasser. *Id.* A complaining employee ordinarily must give the employer an opportunity to take the appropriate steps before quitting the employment. *DURA SUPREME V. KIENHOLTZ*, 381 N.W.2d 92, 95 (Minn. App. 1986).

This requirement does not apply, however, where a complaint would be futile. In *MUNRO*, the applicant was subjected to "patently offensive" sexual harassment by the owner of the business. The applicant complained to her immediate supervisor, who confronted the owner; the owner denied the allegation and continued the harassment. This Court concluded that knowledge of the harassment was imputed to the owner even before the complaint to the immediate supervisor, and because nobody had the authority

to force the owner to change his behavior, the applicant had nobody “from whom she could expect remediation” and was not required to give any further opportunity for the owner to correct his behavior in order to establish good reason to quit. MUNRO, 695 N.W.2d at 388-89.

Similarly, in PORRAZZO V. NABISCO, INC., 360 N.W.2d 662, 664 (Minn. App. 1985), a worker tendered his resignation after he had endured an increase in his work hours and responsibilities without enjoying a concomitant increase in his salary. The employee also had a stressful relationship with his immediate supervisor. In support of the Department’s decision denying the employee benefits, the employer argued that the employee had a duty to “further inform the employer of his continuing problems and, because he did not do so, should be disqualified from receiving unemployment compensation benefits.” *Id.* This Court disagreed. It found that the employer, through the supervisor, “must be deemed to have had knowledge of Porrazzo’s continuing problems,” negating the requirement that he affirmatively complain before his quit would be considered for a “good reason” under the statute. *Id.* PORRAZZO relied primarily on the Supreme Court’s decision in ZEPP V. ARTHUR TREACHER FISH & CHIPS, 272 N.W.2d 262 (Minn. 1978), in which an applicant’s work hours were doubled; the Supreme Court did not indicate that any complaint was required under those circumstances.

The requirement to complain to the employer has only been found in cases in which, absent a complaint, the employer would be expected to have neither actual nor

imputed knowledge of the situation if not informed by the employee. *See, e.g., MCNABB*, 352 N.W.2d at 382 (harassment); *HASKINS*, 558 N.W.2d at 511 (unsafe working equipment). These cases center on the “attendant circumstances” under which an employee performs her job duties, not on the basic terms of employment, such as hours, pay, or work duties. *See, e.g., ZEPP*, 272 N.W.2d at 263 (doubling of work duties constituted good reason to quit); *HOLBROOK V. MINNESOTA MUSEUM OF ART*, 405 N.W.2d 537, 539-40 (Minn. App. 1987) (demotion from curatorial to clerical duties provided good reason to quit and applicant was not required to wait for a three-month review at which position “might” be upgraded). In almost all cases, employers have specific knowledge of their employees’ work hours and pay, along with other basic terms of employment such as benefits. In the present case, as Relator noted in her reconsideration request, she had no reason to “notify” her employer of her reduction in work hours, since her own supervisor, Mark B \_\_\_\_\_, had “initiated the conversation about the reduction of my hours.” App.-9; *cf. PORRAZZO*, 360 N.W.2d at 664 (knowledge deemed to employer due to supervisor’s awareness of problem). There is no evidence that a complaint would, or could, have led the employer to “correct” the problem. *Cf. MUNRO*, 695 N.W.2d at 388-89 (no duty to complain where owner himself was engaged in harassment). Requiring a complaint in circumstances where the employer has notice and a complaint would be futile would be an absurd result inconsistent with the requirement that unemployment statutes be construed liberally. Minn. Stat. §§ 268.031,

subd. 2 (requirement of liberal construction); 645.17(1) (presumption that legislature does not intend absurd results). Thus, because employers have knowledge of their employees' work hours and pay, this Court has never characterized a substantial reduction in work hours and pay as an "adverse working condition" that triggers subd. 3(c) of the statute.

The legislature subsequently codified the requirement to complain, but there is no evidence that it intended to expand the requirement to complain beyond the range of cases in which the courts had required it. Instead, it enacted a requirement that UI law be liberally construed in favor of a grant of benefits, and that disqualification provisions be construed narrowly. MINN. STAT. § 268.031, subd. 2. The requirement to complain operates to disqualify applicants who would otherwise have a good reason to quit caused by the employer. Therefore, if this Court has not previously applied the requirement to complain to a class of cases, it should decline to do so unless clearly directed by the language of the statute.

"Adverse working conditions," for purposes of the statute, includes circumstances of the workplace environment such as safety and coworker interactions, but not the full range of terms of employment such as work hours and rate of pay. ULJ Mismash, by holding for the first time that a substantial reduction in wages triggers the requirement to complain, expanded the disqualification provision of the statute beyond both its language and any previous interpretation by the courts. His decision was thus affected by an error of law and must be reversed.

**CONCLUSION**

The ULJ exceeded his statutory authority and made an error of law by imposing a duty that is not present in the UI statutes in order to deny benefits to an employee who quit her job after her pay was cut by more than fifty percent. Because Relator's employer knew of the reduction and because the reduction occurred through no fault of Relator's, the reduction constitutes, *per se*, a good reason to quit caused by the employer under MINN. STAT. § 268.095, subds. 1(1) and 3(a). The ULJ's decision must therefore be reversed.

Respectfully submitted,

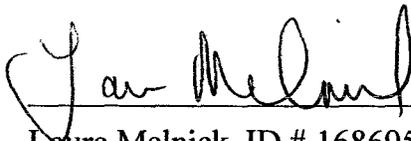
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Dated: 4/17/12



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