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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A07-0453**

Gary I. Carpenter,  
Relator,

vs.

Cambridge Technologies Inc.,  
Respondent,

and

Department of Employment and Economic Development,  
Respondent.

**Filed March 4, 2008  
Affirmed  
Connolly, Judge**

Department of Employment and Economic Development  
File No. 16299 06

Gary I. Carpenter, 27893 Highway 47 NW, Isanti, MN 55040-5979 (pro se relator)

Cambridge Technologies Inc., 15825 Central Avenue NE, Ham Lake, MN 55304-5616  
(respondent)

Lee B. Nelson, Katrina I. Gulstad, Minnesota Department of Employment and Economic  
Development, 1st National Bank Building, 332 Minnesota Street, Suite E200, St. Paul,  
MN 55101-1351 (for respondent department)

Considered and decided by Kalitowski, Presiding Judge; Minge, Judge; and  
Connolly, Judge.

## UNPUBLISHED OPINION

**CONNOLLY**, Judge

This case arose after relator quit his job at respondent. Relator subsequently filed for unemployment benefits but a decision of the unemployment law judge (ULJ) disqualified him from receiving them. The ULJ determined that relator quit his job for other than a good reason caused by his employer pursuant to Minn. Stat. § 268.095, subd. 1 (Supp. 2005). Relator appeals that decision, arguing that (1) respondent misrepresented the nature of the job, constituting a breach of the employment agreement; (2) the ULJ did not define an average reasonable worker; (3) relator repeatedly tried to discuss the adverse working conditions and give respondent a chance to correct them; and (4) the findings of fact by the ULJ were erroneous. We affirm.

### FACTS

Relator Gary Carpenter worked full-time for respondent Cambridge Technologies, Inc. from January 2003 through June 30, 2006. Carpenter began work as a sensor builder, but was promoted to a drafter-designer in May of 2005. Due to this promotion, Carpenter received a substantial pay increase from \$10.90 per hour to \$15 per hour. Carpenter was responsible in his new job for designing and drawing custom-made parts. Carpenter does not have a degree in drafting, and he was having trouble with the technical responsibilities of his new job. Carpenter also stated that he experienced a demeaning work setting and often heard people using profanity. However, he never raised these concerns with the management of Cambridge Technologies. He did inform them, however, that he felt the other designer, his mentor, could be more helpful to him.

In the spring of 2006, Carpenter was growing increasingly discouraged in his new position. He felt that he was not appreciated and that he deserved more money.<sup>1</sup> He also worried that he might be fired at any point, as his responsibilities had been scaled back. However, at the hearing, Cambridge Technologies' vice president of operations and part owner, Brad Lesmeister, stated that he had no intention of firing Carpenter. In approximately March 2006, Carpenter told Lesmeister that if he could not make more money he would need to leave at the end of June to concentrate on his sign business. Lesmeister told Carpenter that he would not be getting a raise. There was some discussion about working part-time which Carpenter was receptive to; however, this offer was later withdrawn. Carpenter ended his employment at Cambridge Technologies on June 30, 2006.

Soon thereafter, Carpenter applied for unemployment benefits with respondent Department of Employment and Economic Development. A department adjudicator initially determined that he was disqualified from receiving benefits, and he appealed. After a hearing, the ULJ found that Carpenter was disqualified from receiving unemployment benefits under Minn. Stat. § 268.095, subd. 1 (Supp. 2005). Carpenter moved for reconsideration. In response, the ULJ modified certain findings of fact in the December 14, 2006 decision, but concluded that the legal analysis was still accurate and reaffirmed the decision.

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<sup>1</sup> Carpenter was given a forty-cent pay raise, from \$15 per hour to \$15.40 per hour, in December 2005. He was not satisfied with this raise.

## DECISION

Carpenter asserts that he is entitled to unemployment benefits because he quit his job for good reason caused by the employer. In response, Cambridge Technologies contends that no statutory exception to disqualification applies and therefore the decision of the ULJ should be affirmed.

The standard of review is set forth in Minn. Stat. § 268.105, subd. 7(d) (Supp. 2005), which provides:

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.

An appellate court will review factual determinations in the light most favorable to the decision. *Lolling v. Midwest Patrol*, 545 N.W.2d 372, 377 (Minn. 1996). The factual findings can be overturned if there is not substantial evidence in the record to support them. *Id.* “Whether an employee voluntarily quit is a question of fact for the [decisionmaker].” *Hayes v. K-Mart Corp.*, 665 N.W.2d 550, 552 (Minn. App. 2003), *review denied* (Minn. Sept. 24, 2003).

An employee who voluntarily quits employment is disqualified from receiving unemployment benefits unless the employee quits for a good reason caused by the employer or another statutory exception applies. Minn. Stat. § 268.095, subd. 1 (Supp. 2005). Good reason is defined in the statute 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 (a) (2004).

The ULJ determined that Carpenter voluntarily quit his job because he was afraid he might be discharged in the future, he was sometimes subjected to a negative work environment, he felt he was not receiving adequate pay, and he felt uncomfortable doing some of the work. There is substantial evidence in the record to support these findings. Whether these reasons for quitting constitute good reason caused by the employer as defined under the statute is a question of law which this court reviews de novo. *Munro Holding, LLC v. Cook*, 695 N.W.2d 379, 384 (Minn. App. 2005).

### **I. Fear of Being Discharged**

First, Carpenter asserts that he was fearful that he would be fired in the future so that Cambridge Technologies could bring in an engineer to take over his position. Under the statute, this does not constitute a good reason caused by the employer. *See Seacrist v. City of Cottage Grove*, 344 N.W.2d 889, 892 (Minn. App. 1984) (concluding that resigning to avoid disciplinary proceedings was quitting for a reason not caused by the employer); *Ramirez v. Metro. Waste Control Comm’n*, 340 N.W.2d 355, 356 (Minn. App.

1983) (determining that quitting to protect work record when threatened with being fired was not quitting for a good reason caused by the employer). The statute provides “[n]otification of a discharge in the future, including a layoff due to lack of work, shall not be considered a good reason caused by the employer for quitting.” Minn. Stat. § 268.095, subd. 3(e) (2004). In this case, Carpenter had not even been notified that he would be fired, but rather he was merely afraid of that outcome. This is not a valid reason for quitting under the statute.

## **II. Negative Work Environment**

Carpenter claims that he was sometimes uncomfortable with the work environment because his coworkers were demeaning to each other and he often heard them using profanity. The statute provides, “[i]f 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(c) (2004). Carpenter never complained to management about his concerns. He told the ULJ, “[n]o, I didn’t complain about the profanity. I didn’t complain about any of the atmosphere stuff.” Therefore, these work environment complaints are not a good reason for quitting caused by the employer. Furthermore, the employer must be given an opportunity to correct the negative environment. Cambridge Technologies was not provided with this opportunity and cannot be deemed responsible for these circumstances.

Carpenter did complain about the other designer, his so-called “mentor” within the company, alleging that he was not receiving the help that he needed. This was immediately addressed by Cambridge Technologies in general and Lesmeister in particular. Lesmeister spoke with the other designer and was informed that relator simply could not understand the very subtle differences between custom parts and how they needed to be built. Lesmeister had already reduced Carpenter’s work responsibilities hoping fewer tasks would help to improve his understanding of the job. The record simply does not support Carpenter’s contention that Cambridge Technologies did nothing, after repeated complaints, to correct any alleged adverse working conditions.

### **III. Pay**

In the spring of 2006, Carpenter told management that he would need to leave if he was not paid more for his work. When Carpenter accepted his promotion, he received a substantial pay raise from \$10.90 per hour to \$15 per hour. He was also given a raise in December 2005 to \$15.40 per hour. If Carpenter was not satisfied with this raise, he had every right to quit. This is not, however, a good reason caused by the employer under the statute that will result in unemployment benefits.

### **IV. Misrepresentation of Position**

Carpenter alleges that he quit because Cambridge Technologies breached the employment agreement by misrepresenting the job to him, and that the position was unsuitable. The statute has an explicit exception covering this type of situation. It states:

An applicant who quit employment shall be disqualified from all unemployment benefits according to subdivision 10 except when:

....

(3) the applicant quit the employment within 30 calendar days of beginning the employment because the employment was unsuitable for the applicant.

Minn. Stat. § 268.095, subd. 1 (3) (Supp. 2005).

However, Carpenter worked in this position for over a year. Therefore, this provision is not applicable to him and cannot be used to qualify him for benefits.

Carpenter needed to have quit for a good reason caused by the employer if his claim of employment misrepresentation is to succeed. Minn. Stat. § 268.095, subd. 3(a). The record does not support the contention that Cambridge Technologies breached any agreement with Carpenter.

#### **V. Average Reasonable Person**

Carpenter takes issue with the “average reasonable person” standard by arguing that today’s workforce requires too tough of a skin and that only an “alpha male” would have been comfortable at Cambridge Technologies. The record does not support this contention. Furthermore, Carpenter did not act as an average, reasonable person. In making this determination, we use “the standard of reasonableness as applied to the average man or woman, and not to the supersensitive.” *Ferguson v. Dep’t of Employment Servs.*, 311 Minn. 34, 44 n.5, 247 N.W.2d 895, 900 n.5 (1976). Carpenter provided no evidence that he was subjected to any extreme conditions, or that he was forced to endure harassment, forced to work long hours, or anything else of this kind. Rather, he simply did not feel comfortable doing the work that was expected of him, he

did not feel that he was being paid well enough, and he was worried that he would be terminated. These are certainly legitimate concerns that would provide some discomfort, but they do not rise to the level of causing the average, reasonable worker to risk being unemployed rather than continuing on in the job. Moreover, these concerns were not reported to the employer. Carpenter did not act as an average, reasonable worker, and therefore he did not quit for good reason caused by his employer.

## **VI. Findings of Fact**

Lastly, Carpenter states that the ULJ's findings of fact were erroneous. In the first order, the ULJ concluded that Carpenter had turned down the offer to work part-time. On reconsideration, however, the ULJ amended the findings of fact to reflect that no offer to work part-time was actually provided to Carpenter, but nonetheless found the rest of the decision to be accurate. This modification does not affect the outcome of this appeal.

The ULJ concluded that Carpenter quit his employment and that there were no statutory exceptions which would prevent his disqualification from receiving unemployment benefits. There is substantial evidence in the record to support those findings.

**Affirmed.**