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Minn. Stat. § 480A.08, subd. 3 (2006).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A07-0721**

Jessica A. Hibbard,  
Relator,

vs.

Park Supply, Inc.,  
Respondent,

Department of Employment and Economic Development,  
Respondent.

**Filed April 15, 2008  
Reversed and remanded  
Klaphake, Judge**

Department of Employment and Economic Development  
File No. 17343 06

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Considered and decided by Halbrooks, Presiding Judge; Klaphake, Judge; and  
Schellhas, Judge.

## UNPUBLISHED OPINION

**KLAPHAKE**, Judge

Relator Jessica A. Hibbard challenges the unemployment law judge's decision disqualifying her from receiving unemployment benefits because she quit without good reason caused by the employer. Because the unemployment law judge based his decision on credibility but failed to make findings, we reverse and remand.

### DECISION

This court may affirm the decision of the unemployment law judge (ULJ) or may remand the case for further proceedings if the petitioner's substantial rights have been prejudiced because the findings, inferences, conclusions, or decision are unsupported by substantial evidence or are arbitrary and capricious. Minn. Stat. § 268.105, subd. 7(d) (2006). We review the ULJ's factual findings in the light most favorable to the decision. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). Whether an employee has good cause to quit attributable to 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).

“When the credibility of an involved party or witness testifying in an evidentiary hearing has a significant effect on the outcome of a decision, the unemployment law judge must set out the reason for crediting or discrediting that testimony.” Minn. Stat. § 268.105, subd. 1(c) (2006). When witness credibility is an issue, we defer to the ULJ's ability to weigh the evidence and its credibility determinations. *Skarhus*, 721 N.W.2d at 344; *Nichols v. Reliant Eng'g & Mfg., Inc.*, 720 N.W.2d 590, 594 (Minn. App. 2006).

But the ULJ must make findings addressing credibility if that determination is central to the decision. *Wichmann v. Travalia & U.S. Directives, Inc.*, 729 N.W.2d 23, 28 (Minn. App. 2007).

The ULJ described the allegations of sexual harassment as a “he said, she said” situation, a statement that underlines that an assessment of credibility is central to the decision. The ULJ stated that the employer’s representative, Edward Dumas, gave testimony that was “specific and credible,” but found that the office manager, Don Junjak was “rather evasive.” By default, Junjak handled human resources issues for the employer; some of the inappropriate conduct described by relator involved Junjak, and other conduct was reported to him in his role as manager. The ULJ made no explicit credibility findings about relator, but rejected her testimony, presumably based on a perception of her credibility.

In *Wichmann*, this court concluded that when a ULJ fails to make credibility findings as required by statute, remand is necessary. *Id.* at 29 (“We recognize that this court usually can infer from findings which witnesses the ULJ found credible. But we cannot search for substantial evidence to support these inferences in the absence of specific findings. To do so would negate the express requirement of section 268.105, subdivision 1(c)”). Here, the ULJ has made an implicit finding of credibility by accepting Junjak’s “evasive” testimony, while rejecting relator’s. Without findings on why the ULJ made this judgment, we are unable to conduct a meaningful review. *See Ywswf v. Teleplan Wireless Servs., Inc.*, 726 N.W.2d 525, 532-33 (Minn. App. 2007) (discussing factors that may be relevant to a credibility determination).

We therefore reverse the ULJ's determination of disqualification and remand this matter to the ULJ for further findings on the issue of credibility.

**Reversed and remanded.**