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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-1718**

Audrey L. Broome,
Relator,

vs.

Dobbs Temporary Services Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed August 26, 2008
Reversed
Worke, Judge**

Department of Employment and Economic Development
File No. 9075 07

Audrey L. Broome, 4089 Meadow Lark Court, Eagan, MN 55122 (pro se relator)

Dobbs Temporary Services, Inc., c/o Talx UCM Services, Inc., P.O. Box 283, St. Louis,
MO 63166 (respondent employer)

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

Considered and decided by Klaphake, Presiding Judge; Toussaint, Chief Judge;
and Worke, Judge.

UNPUBLISHED OPINION

WORKE, Judge

Relator challenges the decision by the unemployment-law judge that she was disqualified from receiving unemployment benefits because she quit without good reason caused by the employer, arguing that she had good reason because (1) the temporary-employment definition of quit does not apply because she had not signed a current version of the “Requesting a New Assignment upon Completion of an Assignment” form; (2) the findings of facts are not supported by the evidence; (3) she did not quit and instead was terminated; and (4) the employer did not show that she was terminated for misconduct. Because we conclude that relator was never given a current form to sign, she did not quit her employment, and the record shows that relator was discharged for reasons other than employment misconduct, we reverse.

DECISION

This court may affirm the decision of the unemployment-law judge (ULJ), remand the case for further proceedings, or 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) (2006). Findings of fact are viewed in the light most favorable to the ULJ's decision, and deference is given to the ULJ's credibility determinations. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). Whether an individual quit employment and the reason the individual quit are questions of fact for the ULJ to determine. *Beyer v. Heavy Duty Air, Inc.*, 393 N.W.2d 380, 382 (Minn. App. 1986). Whether an employee has good reason to quit is a question of law, which this court reviews de novo. *Peppi v. Phyllis Wheatley Cmty. Ctr.*, 614 N.W.2d 750, 752 (Minn. App. 2000).

In October 2006, relator Audrey L. Broome was hired to work full time for respondent Dobbs Temporary Services, Inc. (Pro Staff), a temporary staffing service. Relator was assigned to a receptionist position for RDO Equipment. In late March 2007, relator learned that RDO had asked Pro Staff to find a replacement for her, with relator remaining in the position until a replacement was found. Relator contacted Pro Staff and asked to speak to Tricia, the person she had been dealing with. The front desk coordinator informed relator that Tricia was out until April 16. According to relator, the front desk coordinator told her that she did not have to return to RDO and that when Tricia returned she would find relator a new position. Relator then e-mailed RDO that she would not be returning. On April 2, relator went to the Pro Staff office and told the front desk coordinator that she would be available for work again on April 16, when Tricia returned from vacation. Relator had no further contact with Pro Staff until April 23, when the branch manager, Mandy Wagner, contacted relator regarding additional feedback received from RDO. At that time, Wagner informed relator that Pro Staff

would be “taking action” and that relator was no longer eligible to work through Pro Staff.

Minn. Stat. § 268.095, subd. 2(d) (2006), provides that

An applicant who, within five calendar days after completion of a suitable temporary job assignment from a staffing service employer, (1) fails without good cause to affirmatively request an additional job assignment, or (2) refuses without good cause an additional suitable job assignment offered, shall be considered to have quit employment.

This paragraph shall apply only if, at the time of beginning of employment with the staffing service employer, the applicant signed and was provided a copy of a separate document written in clear and concise language that informed the applicant of this paragraph and that unemployment benefits may be affected.

For purposes of this paragraph, ‘good cause’ reason that is significant and would compel an average, reasonable worker, who would otherwise want an additional temporary job assignment with the staffing service employer, (1) to fail to contact the staffing service employer, or (2) to refuse an offered assignment.

For purposes of this paragraph, a ‘staffing service employer’ is an employer whose business involves employing individuals directly for the purpose of furnishing temporary job assignment workers to clients of the staffing service.

A form entitled “Requesting A New Assignment Upon Completion of an Assignment” that was signed by relator in December 2004 was admitted into evidence. The period of employment at issue here, however, began in October 2006. Relator explained that she was employed by Pro Staff in 2004 and was placed in a temporary-to-hire position that resulted in a permanent position. Relator returned to Pro Staff in

October 2006. There is nothing in the record to show that relator was asked to sign the form in October 2006, the beginning of the employment period at issue here. There is also nothing in the record to show that relator knew that she was required to request an additional assignment within five days of completing her assignment. Furthermore, even though relator did not sign a current form, the record shows that she did request an additional assignment on April 2, 2007, which was within five days after completing her assignment at RDO.

In addition, the ULJ finding that relator's separation was voluntary is not supported by substantial evidence in view of the entire record as submitted. Relator went to the Pro Staff office on April 2, 2007, and informed the front desk coordinator that she would be available for work on April 16, when Tricia returned and found her a new position. Wagner acknowledged that relator was still eligible for work through Pro Staff as of that date. On April 23, 2007, Wagner called relator and informed her that based on additional feedback that Pro Staff received from RDO, relator was no longer eligible for work through Pro Staff. Based on the record, the separation was involuntary, and there is nothing in the record to show that relator was terminated for employment misconduct.

Because relator did not receive the form as required by Minn. Stat. § 268.095, subd. 2(d), when she began her employment with Pro Staff in October 2006, she did not quit her employment within the meaning of the statute. Further, the record also shows that relator was terminated and that there is no evidence of employment misconduct; therefore, relator is not disqualified from receiving unemployment benefits.

Reversed.