

*This opinion will be unpublished and  
may not be cited except as provided by  
Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A11-752**

Erin Hoffman,  
Relator,

vs.

Dorsey and Whitney Partnership,  
Respondent,  
Department of Employment and Economic Development,  
Respondent.

**Filed December 27, 2011  
Affirmed  
Stauber, Judge**

Department of Employment and Economic Development  
File No. 26541476-6

Erin Hoffman, St. Paul, Minnesota (pro se relator)

Dorsey & Whitney Partnership, c/o TALX UCM Services, Inc., St. Louis, Missouri  
(respondent employer)

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

Considered and decided by Peterson, Presiding Judge; Connolly, Judge; and  
Stauber, Judge.

## UNPUBLISHED OPINION

**STAUBER**, Judge

On appeal from the decision of the unemployment law judge (ULJ) that relator is ineligible for unemployment benefits because he quit his employment without good reason caused by his employer, relator argues that (1) he was discharged and did not quit, but even if he did quit, he had good reason based on the change in his break schedule and (2) he was denied a fair hearing. We affirm.

### FACTS

Relator Erin Hoffman was employed in the mailroom by respondent Dorsey & Whitney Partnership (Dorsey) from April 26, 2010, until May 6, 2010. At the hearing regarding relator's request for unemployment benefits, the ULJ heard testimony from relator and Marlene Curtis, the manager of support services at Dorsey. According to Curtis, she received a complaint from a mailroom employee that relator was taking a break late in the day, leaving the employee alone in the mailroom to close out during the busiest part of the day. Based on the complaint, Curtis approached relator and told him that he was taking a break at a time when he was needed to help process the mail. Curtis claimed that without saying anything to her, relator walked away, turned in his security card, and left.

Relator testified that Curtis asked him to "take all of [his] breaks in the first half of the day," which would have left him "without a break from three to seven p.m." Relator testified that when he told Curtis that he would not adhere to Curtis's proposed break schedule, Curtis told him that he was "fired." Relator further testified that the work

environment was “unfavorable” due to employees “fighting amongst each other and backstabbing each other.”

The (ULJ) found that relator quit his employment “for reasons other than because of a good reason caused by his employer.” Although relator claimed that he was fired, the ULJ found Curtis’s testimony that relator quit to be more credible. Thus, the ULJ determined that relator was ineligible for unemployment benefits. Relator filed a request for reconsideration with the ULJ, who affirmed his decision. This certiorari appeal followed.

## **D E C I S I O N**

### **I.**

Relator initially challenges the ULJ’s conclusion that he quit his employment. When reviewing the decision of a ULJ, this court may affirm the decision, remand for further proceedings, or reverse or modify the decision if the substantial rights of the relator have been prejudiced. Minn. Stat. § 268.105, subd. 7(d) (2010).

“Whether an employee has been discharged or voluntarily quit is a question of fact.” *Nichols v. Reliant Eng’g & Mfg.*, 720 N.W.2d 590, 594 (Minn. App. 2006) (quotation omitted). “A quit from employment occurs when the decision to end the employment was, at the time the employment ended, the employee’s.” Minn. Stat. § 268.095, subd. 2(a) (2010). “A discharge from employment occurs when any words or actions by an employer would lead a reasonable employee to believe that the employer will no longer allow the employee to work for the employer in any capacity.” Minn. Stat. § 268.095, subd. 5(a) (2010).

Here, although relator claimed that he was fired, the ULJ found Curtis's testimony that relator quit to be "more credible" because it "was more consistent with the business models of large firms." Credibility determinations are the exclusive province of the ULJ, and this court defers to the ULJ's credibility determinations. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). Therefore, substantial evidence supports the ULJ's decision that relator quit his employment at Dorsey.

Relator argues that even if he did quit his employment, he is entitled to unemployment benefits because he quit for good reason caused by his employer. An applicant who quit his employment is generally ineligible for unemployment benefits. Minn. Stat. § 268.095, subd. 1 (2010). But an exception applies when he quit because of a good reason caused by his employer. *Id.*, subd. 1(1). A good reason to quit caused by an employer is one that is "directly related to the employment and for which the employer is responsible," is adverse to the employee, and "would compel an average, reasonable worker to quit and become unemployed." *Id.*, subd. 3(a) (2010). Whether an employee had a good reason to quit is a question of law that this court reviews de novo. *Munro Holding, LLC v. Cook*, 695 N.W.2d 379, 384 (Minn. App. 2005).

Relator contends that he had good reason to quit because his co-workers were difficult, which created "a hostile environment that caused [him] stress and discomfort with the working conditions." But good reason caused by the employer "does not encompass situations where an employee experiences irreconcilable differences with others at work or where the employee is simply frustrated or dissatisfied with his working conditions." *Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 14 (Minn. App. 1986). Also,

an employee does not have good reason to quit caused by the employer when there is merely disharmony between the employee and a supervisor. *Bongiovanni v. Vanlor Invs.*, 370 N.W.2d 697, 699 (Minn. App. 1985) (concluding that employee did not have a good reason to quit when her supervisor made it clear that he wanted to get rid of her, stopped talking to her, and greatly reduced her work duties). Thus, relator's dissatisfaction with his co-workers did not constitute a good reason to quit his employment for unemployment-benefits purposes.

Relator further argues that he had good reason to quit because he was asked "to do something that was unreasonable, not only in the nature of the demand, but because no other employee was told they had to do it." Specifically, relator contends that his employer's request that he not take any breaks after 3:00 p.m. was unreasonable and that a reasonable person would have quit under those circumstances.

We disagree. Curtis testified that she did not tell relator that he could not take any breaks after 3:00. Instead, Curtis testified that she told relator that he could not take his break after 5:00 because someone needed to be present in the mailroom to take care of the UPS and FedEx deliveries. The ULJ found Curtis's testimony regarding the requested break-time schedule to be more credible, and this court defers to the ULJ's credibility determinations. *See Skarhus*, 721 N.W.2d at 344. The employer's request that relator not take his break between 5:00 p.m. and 7:00 p.m. was reasonable and would not compel an average, reasonable worker to quit and become unemployed. Accordingly, the ULJ did not err by concluding that relator quit without good reason caused by his employer.

## II.

In a fair hearing, the ULJ fully develops the record, assists unrepresented persons in presenting a case, and explains the procedure of and the terms used throughout the hearing. Minn. Stat. § 268.105, subd. 1(b) (2010); Minn. R. 3310.2921 (2009). A hearing is generally considered fair if both parties are afforded the opportunity to give statements, cross-examine witnesses, and offer and object to exhibits. *Yswsf v. Teleplan Wireless Servs.*, 726 N.W.2d 525, 529-30 (Minn. App. 2007).

Relator appears to argue that he did not receive a fair hearing due to possible discrepancies in the transcript. But relator admits that he was unable to verify the alleged discrepancies because his “computer’s CD drive is not working.” Thus, relator has not shown that he was denied a fair hearing. Moreover, the alleged discrepancies involve a word or two that relator did not believe he used. The alleged discrepancies do not involve the substantive portions of relator’s testimony. Therefore, even if there were errors in the transcript, they did not affect relator’s substantial rights. *See* Minn. Stat. § 268.105, subd. 7(d) (stating that this court may only reverse if an error affected relator’s substantial rights); *see also Midway Ctr. Assocs. v. Midway Ctr. Inc.*, 306 Minn. 352, 356, 237 N.W.2d 76, 78 (1975) (stating that to prevail on appeal, appellant must show not only error, but also resulting prejudice).

**Affirmed.**