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STATE OF MINNESOTA
IN COURT OF APPEALS
A11-468

Joel Strate,
Relator,

vs.

Quality Mobile Transport, Inc.,
Respondent,

Department of Employment
and Economic Development,
Respondent.

Filed January 17, 2012
Reversed
Klaphake, Judge

Department of Employment and Economic Development
File No. 26160879-4

Joel D. Strate, Elk River, Minnesota (pro se relator)

Quality Mobile Transport, Inc., Forest Lake, Minnesota (respondent)

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

Considered and decided by Larkin, Presiding Judge; Klaphake, Judge; and Stauber, Judge.

U N P U B L I S H E D O P I N I O N

KLAPHAKE, Judge

Relator Joel Strate challenges the decision of the unemployment law judge (ULJ) determining that he is ineligible for unemployment benefits because he quit work without a good reason caused by the employer and that no exception to ineligibility applies. Because there is not substantial evidence in the record supporting the ULJ's conclusion that relator did not quit in order to accept other employment on substantially better terms, we reverse the determination of ineligibility.

D E C I S I O N

The appellate court may reverse or modify a ULJ determination if, among other things, it was unsupported by substantial evidence in light of the record. Minn. Stat. § 268.105, subd. 7(d) (2010). We review the ULJ's factual findings in the light most favorable to the decision and will not reverse the findings if there is substantial record evidence that supports them. *Id.*, subd. 7(d)(5). We review whether an applicant is ineligible for benefits as a question of law. *Grunow v. Walser Auto. Group LLC*, 779 N.W.2d 577, 579 (Minn. App. 2010).

An employee who quits employment is ineligible for unemployment benefits unless one of several exceptions applies. Minn. Stat. § 268.095, subd. 1 (2010). An employee quits employment "when the decision to end the employment was, at the time the employment ended, the employee's." *Id.*, subd. 2(a) (2010). Here, the ULJ's finding that relator quit his job is supported by substantial evidence. Although relator testified that he attempted to contact the employer to schedule hours after his leave of absence was

over, the employer's representatives testified that they were not contacted and received no messages. If the credibility of a witness has "a significant effect on the outcome of a decision," the ULJ must set forth reasons for crediting or discrediting the testimony. Minn. Stat. § 268.105, subd. 1(c) (2010). We defer to the ULJ's credibility determinations. *McNeilly v. Dep't of Emp't & Econ. Dev.*, 778 N.W.2d 707, 710 (Minn. App. 2010); *see also Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 345 (Minn. App. 2006) ("Credibility determinations are the exclusive province of the ULJ and will not be disturbed on appeal."). The ULJ found that the "employer's testimony was more credible because it was clearer and more detailed." This is sufficient to support the ULJ's credibility determination.

One exception to the rule of ineligibility after a quit is when the employee leaves to "accept other covered employment that provided substantially better terms and conditions of employment, but the applicant did not work long enough at the second employment to have sufficient subsequent earnings to satisfy the period of ineligibility[.]" Minn. Stat. § 268.095, subd. 1(2). The ULJ rejected this exception, stating that relator failed to provide evidence that demonstrated that his new employment with Olympic Steel provided substantially better terms. On reconsideration, the ULJ reaffirmed the decision, stating that relator was giving contradictory testimony when he stated that the job was not to start until June 25, rather than May 25.

The ULJ's findings are not based on substantial record evidence. The ULJ found that relator worked for Olympic Steel beginning May 25. The transcript of testimony reveals that relator testified that he did not begin working for Olympic Steel: "actually the

week I was supposed to start it fell through and for whatever corporation decisions they decided not to get the trucks that they were gonna bring in so they didn't need any more drivers." Apparently not recognizing the significance of this testimony, the ULJ inquired when the position ended, and relator answered that he was notified, presumably of the decision not to hire additional drivers, on June 9. There is no support in the record for the ULJ's findings that relator started work on May 25 or that relator offered contradictory testimony about his start date.

In order to qualify for the statutory exception to the rule of ineligibility for an employee who quits, the employee must show that the new employment included substantially better terms and conditions. *Sykes v. Nw. Airlines, Inc.*, 789 N.W.2d 253, 255 (Minn. App. 2010). The ULJ found that relator failed to prove that his offer of new employment with Olympic Steel would offer substantially better employment because, among other things, Olympic Steel did not report relator's wages to the department. But there were no new wages to report because relator never was permitted to begin the new job, although he had participated in new employee orientation and was assigned a specific start date. Relator also testified on the terms of his new employment: an hourly wage of $17.90, which was significantly better than his previous wage; full-time employment, as opposed to his previous part-time employment; and health insurance, which was not available from his previous employer. Thus, the record does not support the ULJ's finding that no record evidence showed that the new employment offered substantially better terms, but does support a finding that the proffered employment would be on substantially better terms.

The supreme court recently stated that the courts should "narrowly construe the disqualification provisions of the statute in light of their remedial nature." *Stagg v. Vintage Place, Inc.*, 796 N.W.2d 312, 315 (Minn. 2011); *see also* Minn. Stat. § 268.031, subd. 2 (2010). The avowed purpose of the Minnesota unemployment law is to provide for workers "who are unemployed through no fault of their own." Minn. Stat. § 268.03 (2010). Although relator quit his employment, the statute provides that those who attempt to better their employment opportunities will not be penalized by ineligibility when the better position does not work out. *See* Minn. Stat. § 268.095, subd. 1(2).

We conclude that the ULJ's determination of ineligibility was not supported by substantial evidence and we therefore reverse.

Reversed.