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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-1554**

Michaelena Walker-Seals,
Relator,

vs.

Ind. School District #625,
Respondent,

Department of Employment
and Economic Development,
Respondent.

**Filed May 14, 2012
Affirmed
Randall, Judge***

Department of Employment and Economic Development
File No. 27831329-3

Michaelena D. Walker-Seals, St. Paul, Minnesota (pro se relator)

Ind. School District #625, St. Louis, Missouri (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 Wright, Presiding Judge; Hudson, Judge; and Randall,
Judge.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

RANDALL, Judge

Relator challenges the decision by an unemployment-law judge (ULJ) that she was unavailable to accept suitable employment during the relevant period. We affirm.

FACTS

In the late fall of 2009, relator Michaelena Walker-Seals began working as a teaching assistant for respondent Independent School District #625 at Farnsworth Middle School. Walker-Seals worked there until May 2010, when she began to have pregnancy complications that caused her doctor to restrict her to light-duty work only. Because the school district was not able to find suitable work for her, Walker-Seals was placed on a medical leave of absence through her delivery date, which was expected to be in mid-September 2010. According to the medical statement submitted with her request for reconsideration, Walker-Seals was expected to be totally unable to work from the delivery date until November 13, 2010. Walker-Seals returned to work for the school district around the beginning of December 2010, after Thanksgiving break. Soon thereafter, Walker-Seals developed a stomach ailment that eventually required gallbladder surgery. Around the same time, Walker-Seals's newborn son also developed medical concerns, including pneumonia and difficulty breathing and swallowing. Because of her and her son's illnesses, Walker-Seals was given another leave of absence beginning December 7, 2010. This leave of absence was to last until February 1, 2011, but because Walker-Seals was taking care of her son, she stayed on leave beyond that date.

The leave of absence required Walker-Seals to continually update the school district about her condition and the condition of her son. Walker-Seals found this difficult to do, because of the uncertainty about when she and her son would be well enough for her to return to work. As a result, Walker-Seals resigned from her position with the school district in March 2011. Walker-Seals began to seek employment in April 2011. However, Walker-Seals submitted an unemployment insurance request for information form indicating that for the week of May 15-21, 2011, she “wasn’t able to work any of those days. I am caring for my ill 8 month old son. He is starting to get better. I can now return to work.” At the time of the hearing, Walker-Seals stated she was scheduled to begin a new job on June 27, 2011.

DEED determined that, for the period from May 23, 2010,¹ until May 21, 2011, Walker-Seals was ineligible to receive unemployment benefits because her own medical condition, as well as that of her son, caused her to be unavailable to accept suitable employment. Walker-Seals appealed this determination, and a hearing was held before a ULJ on June 24, 2011. The ULJ issued decisions and findings of fact on June 28, 2011, finding that Walker-Seals (1) did not terminate her employment for a good reason caused by her employer or because illness made it medically necessary, and (2) was not available for suitable employment during the period from May 23, 2010, to May 21, 2011, because

¹ Based on the medical evidence discussed below, the ULJ found that Walker-Seals’s medical condition caused her to be unavailable for suitable employment on May 13, 2010. However, Walker-Seals was not eligible for unemployment benefits until May 23, 2010, which was the date she established her benefit account. Because Walker-Seals could not have received benefits before May 23, only the period after that date is relevant to our analysis.

of her medical concerns and because she was caring for her son. Walker-Seals requested reconsideration on July 8, 2011, arguing that the documentation submitted to DEED contained errors, that she believed that she was available for suitable employment during the relevant period, and that her enrollment in college classes affects her eligibility. Walker-Seals submitted additional documentation in support of these arguments. The ULJ affirmed the previous decision. Walker-Seals appeals by writ of certiorari.

D E C I S I O N

The ULJ found that Walker-Seals was unavailable for suitable employment between May 23, 2010, and May 21, 2011. On appeal, Walker-Seals argues that the termination of her employment was either involuntary or for a good reason; that medical documentation indicates her ability to work; and that her availability for suitable employment was unaffected by the need for child care for her son. DEED argues that Walker-Seals voluntarily terminated her employment without satisfying any of the statutory exceptions to ineligibility; and that Walker-Seals was not available during the relevant period because of her and her son's medical conditions and because child care was unavailable.

This court may modify, reverse, or remand a ULJ's decision if the substantial rights of the relator were prejudiced because the findings or decision were "made upon unlawful procedure," affected by an error of law, or "unsupported by substantial evidence." Minn. Stat. § 268.105, subd. 7(d)(3)–(5) (2010).

Termination of Employment and Exceptions to Ineligibility

As an initial matter, we address whether Walker-Seals voluntarily terminated her employment. Walker-Seals argues that she “was forcefully placed on a leave of absence by” the school district. DEED does not dispute that Walker-Seals was placed on a medical leave of absence by her employer. “An applicant on an involuntary leave of absence is not ineligible under this subdivision.” Minn. Stat. § 268.085, subd. 13a (a) (2010). Walker-Seals was determined to be eligible to receive unemployment benefits while she was on her initial leave of absence, so long as she was “able to perform some other type of paid work that exists in the labor market and must be seeking and willing to immediately accept such work.” However, the effect of Walker-Seals’s leave of absence on her eligibility is not at issue here. The issue is her resignation from employment in March 2011. Walker-Seals does not dispute that she resigned her employment in March 2011, or that her decision was a voluntary termination of her employment. It is that resignation that is analyzed for a statutory exception to ineligibility.

An employee who voluntarily terminates employment is ineligible for unemployment benefits unless he or she “quit the employment because of a good reason caused by the employer.” Minn. Stat. § 268.095, subd. 1(1) (2010). A good reason caused by the employer directly relates to employment for which the employer is responsible, is adverse to the employee, and “would compel an average, reasonable worker to quit.” *Id.*, subd. 3(a) (2010). Moreover, the employee must “give the employer a reasonable opportunity to correct the adverse working conditions” before they can be considered a good reason caused by the employer. *Id.*, subd. 3(c) (2010). “A

good personal reason does not equate with good cause” to quit. *Kehoe v. Minn. Dep’t of Econ. Sec.*, 568 N.W.2d 889, 891 (Minn. App. 1997) (quotation omitted).

Walker-Seals argues that she “quit employment to attend school.” While it is admirable that Walker-Seals continued to attend college through medical difficulties, this is not a good reason to quit within the statutory requirements for eligibility. First, Walker-Seals’s attendance at college was not caused by her employer. Second, her college enrollment does not appear to be directly related to her employment. Third, were this a good reason to quit caused by her employment, Walker-Seals would have been required to give her employer a reasonable opportunity to correct the condition. There is no evidence that any of these requirements was satisfied in this case. The circumstances do not except Walker-Seals from ineligibility.²

Walker-Seals’s medical condition also implicates the exception to ineligibility for medical necessity. An employee who voluntarily terminated employment may be eligible for unemployment benefits if “the applicant quit the employment . . . because the applicant’s serious illness or injury made it medically necessary that the applicant quit.” Minn. Stat. § 268.095, subd. 1(7) (2010). However, “[t]his exception only applies if the applicant informs the employer of the medical problem and requests accommodation and

² Considering the statutory language pertaining to a student’s eligibility for unemployment benefits, this statement may indicate an additional reason for her ineligibility. See Minn. Stat. § 268.085, subs. 2(3) (“An applicant is ineligible for unemployment benefits for any week . . . that occurs in a period when the applicant is a student in attendance at, or on vacation from a secondary school including the period between academic years or terms.”); 15(b) (stating that “a student who has regularly scheduled classes must be willing to discontinue classes to accept suitable employment”) (2010).

no reasonable accommodation is made available.” *Id.* Here, Walker-Seals’s medical condition was the impetus for her leaves of absence, not her resignation from employment. Walker-Seals testified at the hearing that it was difficult and “stressful” to continuously update the school district about her condition and the condition of her son. But that does not appear to indicate medical necessity. Rather, it indicates that Walker-Seals resigned from her position because she felt pressured to provide a firm date on which she would be able to return to work but was not able to provide that date.

Walker-Seals quit her employment in March 2011, so any exception to ineligibility for voluntary termination could only apply from the time she quit until she was potentially eligible for benefits again on May 22, 2011. Walker-Seals did not quit for a good reason caused by her employer, and because it was not medically necessary for her to quit, no exception to ineligibility applies.

Availability for Suitable Employment

The ULJ found that Walker-Seals was unavailable to accept suitable employment between May 23, 2010, and May 21, 2011. To be eligible for unemployment benefits in any week, an applicant must be “available for” suitable employment. Minn. Stat. § 268.085, subd. 1(4) (2010). “‘Available for suitable employment’ means an applicant is ready and willing to accept suitable employment . . . An applicant may restrict availability to suitable employment, but there must be no other restrictions, either self-imposed or created by circumstances, temporary or permanent, that prevent accepting suitable employment.” *Id.*, subd. 15(a) (2010). “Availability however, requires more than just willingness to accept suitable work. The claimant must be available in the sense

that he is in a position to accept work.” *Flores v. Dep’t of Jobs & Training*, 411 N.W.2d 499, 503 (Minn. 1987). Equitable relief from these statutory requirements is explicitly prohibited. Minn. Stat. § 268.069, subd. 3 (2010).

Whether a person is “available for” suitable employment as required for eligibility is a factual determination. *Goodman v. Minn. Dep’t of Emp’t Servs.*, 312 Minn. 551, 553, 255 N.W.2d 222, 223 (1977). We review a ULJ’s findings of fact in the light most favorable to the decision and give deference to the ULJ’s credibility determinations. *Peterson v. Nw. Airlines, Inc.*, 753 N.W.2d 771, 774 (Minn. App. 2008), *review denied* (Minn. Oct. 1, 2008). This court will sustain a ULJ’s factual findings if they are supported by substantial evidence. Minn. Stat. § 268.105, subd. 7(d)(5). “Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion” *Moore Assocs., LLC v. Comm’r of Econ. Sec.*, 545 N.W.2d 389, 392 (Minn. App. 1996) (quotation omitted). Credibility determinations are the exclusive province of the ULJ, and this court accords such determinations deference on appeal. *Skarhus v. Davanni’s Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006).

Walker-Seals argues that the ULJ made two errors in finding that she was unavailable for suitable employment. First, she argues that the proper medical documentation was not considered by the ULJ and that if it had been, she would have been eligible for unemployment benefits. Second, she argues that child care was available for her son, such that her responsibility for him did not affect her availability for suitable employment. DEED argues that the factual finding that Walker-Seals was

unavailable for work because of her medical condition and her responsibility for her son's care was supported by substantial evidence. We address these arguments in turn.

The ULJ found that, “[a]ccording to the medical statements [Walker-]Seals provided, she was totally unable to work from May 13, 2010 through November 13, 2010; and from December 9, 2010 through March 16, 2011.” This finding synthesizes a number of pieces of documentary evidence. Walker-Seals filled out an Unemployment Insurance Request for Information that indicated she was “totally disabled from performing any type of work” from May 20, 2010, to March 15, 2011. A medical statement dated June 8, 2010, indicated that Walker-Seals had limited ability or work restrictions from May 24, 2010, to September 1, 2010. A certification of health care provider filled out by Walker-Seals's doctor for her application for Family and Medical Leave indicated that she would be incapacitated for a period from May 24, 2010, to November 1, 2010, with only sedentary work possible. That same doctor signed a letter dated May 13, 2010, indicating Walker-Seals was only capable of sedentary work, without long periods of standing, until she gave birth, with an expected due date of September 10, 2010. A medical statement filled out by the same doctor and dated June 17, 2011, indicated that Walker-Seals was totally unable to perform any type of work from May 13, 2010, to November 13, 2010. Another medical statement, dated June 21, 2011, but signed by a different doctor, indicated that Walker-Seals would be totally unable to perform any type of work from December 9, 2010, to March 16, 2011. This documentation supports the ULJ's finding that Walker-Seals was unable to work because of her medical condition during the relevant period.

Even though Walker-Seals testified that she was able to work during that period, her medical and written documentation, including some coming from Walker-Seals herself, indicates otherwise. Walker-Seals argues that she provided different medical documentation with her request for reconsideration, and that the ULJ failed to properly consider that evidence. With her request for reconsideration, Walker-Seals submitted a letter from a medical professional dated December 9, 2010, indicating that she should avoid lifting, bending, and twisting for the next two weeks. There is also a letter dated December 16, 2010, indicating that Walker-Seals could return to work on December 20, 2010, but should again avoid twisting, bending, and lifting more than twenty pounds for the next two weeks. Finally, Walker-Seals submitted an undated letter indicating that she underwent a medical procedure on February 25, 2011, and would be unable to work for two weeks if it involved lifting. This evidence does not appear to change the outcome of the decision of the ULJ such that an additional evidentiary hearing should have been held under Minn. Stat. § 268.105, subd. 2(c) (2010).³

³ On appeal, Walker-Seals presents further medical documentation. This evidence does not appear anywhere else in the record, and it does not appear that the ULJ would have had it available at the hearing or on reconsideration. This evidence is thus not part of the record, and is not properly considered by this court. *See* Minn. R. Civ. App. P. 110.01. This evidence, consisting of revised versions of the two June 2011 medical statements, indicates that Walker-Seals had limited ability or work restrictions from May 13, 2010, to September 9, 2010, and from December 9, 2010, until March 15, 2011; and was totally unable to perform any type of work from September 10, 2010, to November 13, 2010. While these changes may indicate that Walker-Seals was not totally unable to work during portions of the relevant period, they also indicate that Walker-Seals's ability to work was limited by her medical condition, which therefore limited her availability for work. Thus, even if it was properly considered here, this evidence would not change the outcome.

Substantial medical evidence supports the ULJ's factual finding that Walker-Seals was unable to work during the periods from May 23, 2010, to November 13, 2010, and from December 9, 2010, to March 16, 2011. Because a person that is unable to work is not available for suitable employment, that factual finding supports the legal conclusion that Walker-Seals was unavailable for suitable employment, and was ineligible for unemployment benefits, from May 23, 2010 until March 16, 2011.

The ULJ found that after March 16, 2011, Walker-Seals's unavailability did not result from her medical condition, but from her responsibility to care for her ill son. In making that determination, the ULJ relied on the DEED request for information Walker-Seals filled out for the week of May 15 to May 21, 2011. On that form, Walker-Seals indicated that, for the entire week, she "could . . . not have accepted work due to [her] family or domestic responsibilities." By way of explanation, Walker-Seals further stated: "I wasn't able to work any of those days. I am caring for my ill 8 month old son. He is starting to get better. I can now return to work." Walker-Seals also testified that part of the reason she resigned from her job was that her son was ill. Together, these circumstances indicate that Walker-Seals's son was ill and in need of her care during the period between her resignation in mid-March 2011 and the end of that week, May 21, 2011. Even as of the hearing in June 2011, Walker-Seals indicated that her son was still sick, though she also testified that he was well enough to go to day care while she worked. When asked whether she was "still providing care for [her] sick son" until May 20, Walker-Seals responded: "Yes, I have been, and I still am."

There is some evidence indicating that child-care needs would not have prevented Walker-Seals from being available for suitable employment. First, Walker-Seals submitted child-care records, ostensibly pertaining to her other children, with her reconsideration request to show that she had child care available to her. Walker-Seals submitted evidence that she was applying for jobs beginning on March 2, 2011, indicating that she believed she would be available for suitable employment. Finally, Walker-Seals testified that if she were employed, her son could have gone to daycare. However, Walker-Seals testified that she would have had to get permission from her son's doctors for him to enter daycare and that she would have had to use family or friends as daycare in the interim. But she testified that she did not have family or friends to do that for her.

In light of the deference given to the ULJ's findings of fact, we conclude that the ULJ did not err in determining that Walker-Seals was unavailable for suitable employment because she continued to care for her ill son until May 21, 2011.

We recognize Walker-Seals arguments and appreciate the difficult situation these circumstances present, but we cannot find eligibility on these facts.

Affirmed.