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

**STATE OF MINNESOTA  
IN COURT OF APPEALS**

**A06-2405**

Clifton Hicks,  
Relator,

vs.

McDonalds Restaurants of Minnesota Inc.,  
Respondent,

Department of Employment and Economic Development,  
Respondent.

**Filed January 8, 2008  
Affirmed  
Shumaker, Judge**

Department of Employment and Economic Development  
File No. 13932 06

Clifton J. Hicks, 228 Ninth Avenue South, South St. Paul, MN 55075-2122 (pro se relator)

McDonalds Restaurants of Minnesota Inc., c/o Tax Employer Services LLC, P.O. Box 1160, Columbus, OH 43216-1160 (respondent employer)

Lee B. Nelson, Minnesota Department of Employment and Economic Development, 1st National Bank Building, 332 Minnesota Street, Suite E200, St. Paul, MN 55101-1351 (for respondent department)

Considered and decided by Klaphake, Presiding Judge; Shumaker, Judge; and Worke, Judge.

## UNPUBLISHED OPINION

**SHUMAKER**, Judge

Relator challenges the unemployment law judge's (ULJ) decision disqualifying him from receiving unemployment benefits, asserting that the ULJ erred by finding that he quit without good reason caused by his employer. Because the ULJ did not err by finding that relator quit his job without good reason caused by the employer, we affirm.

### FACTS

Relator Clifton Hicks worked for McDonalds Restaurants of Minnesota Inc. from October 2005 until he quit on August 25, 2006. He was hired as a maintenance worker and worked approximately 30 hours per week, earning an hourly wage of \$8.50.

On August 24, 2006, Hicks's manager told him that a tipster said that Hicks was stealing food and then selling it out of his home. The manager told Hicks that McDonalds was going to conduct an investigation and that, meanwhile, Hicks's access to the cooler was restricted and the surveillance camera would be monitored closely.

When Hicks reported to work the next day, another employee refused to give him a key to the cooler. That employee told Hicks that he had heard Hicks was stealing from the restaurant. Hicks then found his manager and told her that he could no longer work in a place where people believe he was stealing food, and he quit.

Hicks applied for unemployment benefits, and his claim was denied. Hicks appealed, and after a hearing the ULJ determined that Hicks quit for other than good reason caused by his employer and was disqualified from receiving benefits. Hicks

requested reconsideration, and the ULJ affirmed her decision. This certiorari appeal followed.

## D E C I S I O N

Hicks contends that he is entitled to benefits because he quit for a good reason caused by his employer. He argues that his manager accused him of stealing and that everyone he worked with knew about those allegations.

This court may reverse or modify a ULJ's decision if the employee's substantial rights have been prejudiced because the ULJ's findings, inferences, conclusion, or decision are affected by error of law, unsupported by substantial evidence, or are arbitrary and capricious. Minn. Stat. § 268.105, subd. 7(d)(4)-(6) (2006).

An employee who voluntarily quits may receive unemployment benefits if he or she quit for "a good reason caused by the employer." Minn. Stat. § 268.095, subd. 1(1) (2006). "A good reason caused by the employer" is one "(1) that is directly related to the employment and for which the employer is responsible; (2) that is adverse to the worker; and (3) that would compel an average, reasonable worker to quit and become unemployed rather than remain in the employment." *Id.*, subd. 3(a).

When the employee is subject to adverse working conditions, the employee must notify the employer about the conditions and allow a reasonable opportunity to cure those conditions before they can be regarded as a good reason to quit caused by the employer. Minn. Stat. § 268.095, subd. 3(c) (2006). However, "[a] good personal reason does not equate with good cause" to quit employment. *Kehoe v. Minn. Dep't of Econ. Sec.*, 568 N.W.2d 889, 891 (Minn. App. 1997) (quotation omitted). Further, a good reason to quit

attributable to an employer “does not encompass situations where an employee . . . is simply frustrated or dissatisfied with his working conditions.” *Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 14 (Minn. App. 1986). Whether an employee quits without good reason caused by the employer is a question of law, which we review de novo. *Kehoe*, 568 N.W.2d at 890.

Hicks argues that he quit because he was hurt that the manager accused him of stealing. But the record does not support Hicks’s contention that the manager accused him; the ULJ found that the manager simply outlined a plan to investigate the thievery and that it was reasonable for McDonalds to restrict Hicks’s access to the cooler pending that investigation. Credibility evaluations are solely for the ULJ to make. *Skarhus v. Davanni’s Inc.*, 721 N.W.2d 340, 345 (Minn. App. 2006). The ULJ’s finding that McDonalds did not treat Hicks unreasonably or act in contravention of the employment arrangement is supported by the record.

Hicks also contends he quit for good reason caused by the employer because everyone at McDonalds knew of the accusation made by the tipster. The record shows that the McDonalds’ manager testified that no employees knew of the allegation against Hicks, and none knew the reason why Hicks was barred from the cooler. Additionally, the manager stated that, at the time of the conversation, there had been no intention on the part of McDonalds to discipline Hicks because there was no proof that he had stolen anything. The ULJ did not find that other employees had been told of the allegations, and the credibility of specific testimony is a determination well within the ULJ’s authority.

The conversation between the McDonalds' manager and Hicks, which informed Hicks of the tip that had been brought to the manager's attention, would not compel an average, reasonable worker to quit and become unemployed rather than remain in employment. Hicks has not shown that he quit for a good cause attributable to McDonalds.

Finally, Hicks asks this court to review the surveillance camera at McDonalds, which, he argues, would show he did not take any food. We may not do so. The video surveillance evidence was not part of the record before the ULJ. *See* Minn. R. Civ. App. P. 110.01 (explaining that the appellate record consists of “[t]he papers filed in the trial court, the exhibits, and the transcript of the proceedings”). Furthermore, this court does not have the authority to weigh evidence upon review. *See Whitehead v. Moonlight Nursing Care, Inc.*, 529 N.W.2d 350, 352 (Minn. App. 1995) (confirming the factfinder's ability to weigh evidence and stating that “we may not weigh that evidence on review”).

**Affirmed.**