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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-2058**

Pamela N'soroma James,
Relator,

vs.

Masterson Personnel, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed November 25, 2008
Affirmed
Johnson, Judge**

Department of Employment and Economic Development
File No. 7004 07

Pamela N'soroma James, c/o Kehinde Apará, 2424 Haste Avenue, #D-34, Berkeley, CA 94703 (pro se relator)

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Considered and decided by Johnson, Presiding Judge; Ross, Judge; and Larkin,
Judge.

UNPUBLISHED OPINION

JOHNSON, Judge

An unemployment law judge (ULJ) found that Pamela N'soroma James quit her job at Masterson Personnel, Inc., after expressing dissatisfaction with her hourly wage. The ULJ concluded that James quit without a good reason caused by the employer. The ULJ came to this conclusion based only on evidence received from Masterson because James did not participate in the telephonic evidentiary hearing. After James sought an additional evidentiary hearing, the ULJ concluded that James had failed to show good cause for failing to participate in the hearing. We affirm.

FACTS

Pamela N'soroma James worked for Masterson, an employment agency, from July 5, 2006, to March 2, 2007. Masterson assigned James to be an administrative assistant at the Minneapolis Public Housing Authority (MPHA) at an hourly rate of \$11.50. On several occasions during her employment, James expressed to Masterson her dissatisfaction with her rate of pay. Each time, Masterson informed her that her pay was limited by the contract between Masterson and MPHA. On the morning of February 20, 2007, James informed Masterson that she intended to quit and that her last day would be March 2, 2007.

James established a benefits account with the Department of Employment and Economic Development (DEED). A DEED adjudicator initially determined that James qualified for unemployment benefits, and Masterson appealed. At some point after her termination, James moved to California. James's hearing was originally scheduled to take place on June 15, 2007. The ULJ called her that day to conduct the hearing but postponed

the hearing because James did not receive proper notice. On June 27, 2007, the ULJ again called James to conduct a hearing on Masterson's appeal, as scheduled and noticed, but no one answered the call. The ULJ proceeded with the hearing and received testimony from two Masterson employees. The ULJ concluded that James was disqualified from unemployment benefits because she quit her employment and because Masterson's refusal to raise her pay was not a "good reason" constituting an exception to the general rule of disqualification.

On July 18, 2007, James wrote a letter to the ULJ requesting that he reopen the evidentiary record and reconsider the disqualification decision. On September 19, 2007, the ULJ issued an order affirming his earlier decision and denying James's request for an additional evidentiary hearing on the ground that she had not shown good cause for failing to participate in the June 27, 2007 hearing. James seeks review in this court by a petition for writ of certiorari.

D E C I S I O N

I. Request for Additional Evidentiary Hearing

James first seeks review of the ULJ's denial of her request for an additional evidentiary hearing. If an applicant fails to appear at an evidentiary hearing, the decision will be set aside and an additional evidentiary hearing conducted only if the applicant files a request for reconsideration and shows "good cause" for failing to participate. Minn. Stat. § 268.105, subd. 2(d) (2006). "Good cause" is "a reason that would have prevented a reasonable person acting with due diligence from participating at the evidentiary hearing." *Id.* A ULJ's decision to deny a request for an additional evidentiary hearing will not be

reversed absent an abuse of discretion. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 345 (Minn. App. 2006).

The ULJ denied James's request on the ground that she had not shown good cause for failing to participate. James stated in her request for rehearing that she became ill the day before the hearing. There is no evidence that she made any attempt to inform DEED of her illness or to reschedule the hearing. In fact, the record reflects that James called DEED the day before the hearing to confirm the date and time of the hearing. We agree with the ULJ that a "reasonable person acting with due diligence" who fell ill the day before a hearing would call DEED to reschedule the hearing. *See* Minn. Stat. § 268.105, subd. 2(d); *see also Skarhus*, 721 N.W.2d at 345 (holding that work-schedule conflict was not "good cause" for failure to participate in hearing where applicant had not attempted to reschedule hearing). Thus, the ULJ did not abuse his discretion by concluding that James did not meet the good-cause standard and by denying James's request for an additional evidentiary hearing.

II. Disqualification

James also argues that the ULJ erred by finding that she quit her job without good reason. This court reviews a ULJ's decision by seeking to determine whether the findings, inferences, conclusions, or decision are affected by an error of law or are unsupported by substantial evidence in view of the entire record. Minn. Stat. § 268.105, subd. 7(d) (2006). We must consider whether the ULJ's findings are supported by substantial evidence "in view of the entire record as submitted." Minn. Stat. § 268.105, subd. 7(d)(5). The ULJ's factual findings are viewed in the light most favorable to the decision being reviewed.

Jenkins v. American Express Fin. Corp., 721 N.W.2d 286, 289 (Minn. 2006). The ultimate determination whether an employee was properly disqualified from receiving unemployment benefits is a question of law, which is reviewed de novo. *Id.*

A. Quit

James contends that the ULJ erroneously found that she quit her position. Employees who quit employment are disqualified from unemployment benefits. Minn. Stat. § 268.095, subd. 1 (2006). A “quit” has occurred when “the decision to end the employment was, at the time the employment ended, the employee’s.” *Id.*, subd. 2(a) (2006). Whether an employee quit is a question of fact for the decisionmaker. *Hayes v. K-Mart Corp.*, 665 N.W.2d 550, 552 (Minn. App. 2003), *review denied* (Minn. Sept. 24, 2003).

The evidence introduced at the hearing supports the ULJ’s findings. Two employees of Masterson testified that James called Masterson on the morning of February 20, 2007, to inform the firm that March 2, 2007, would be her last day on the job. Both employees testified that James’s expressed reason for quitting was her dissatisfaction with her hourly wage. This evidence is a sufficient basis for the ULJ’s findings.

James argues in her brief to this court that MPHA let her go due to pressure from a union. But James’s supervisor at Masterson testified that he had not received any indication from MPHA that it did not wish to renew James’s contract. James also argues that Masterson previously had told her that there were no other positions available through Masterson and that she should look for a different job. But this argument is contradicted by the testimony of a Masterson employee who testified that Masterson called James on May

23, 2007, to offer her another job but she reiterated that she “didn’t want to work with Masterson anymore.”

James challenges the ULJ’s credibility determinations, asserting that the testimony of the Masterson employees was “full of false and misleading statements.” But we must “view the ULJ’s factual findings in the light most favorable to the decision, giving deference to the credibility determinations made by the ULJ.” *Skarhus*, 721 N.W.2d at 344. This is especially so when there is no contradictory evidence in the record, as is the case here. Thus, the ULJ’s findings were supported by substantial evidence.

B. Good Reason Exception

James also contends that, even if she is deemed to have quit, she had a good reason to quit because her pay was not commensurate with her responsibilities at MPHA. An applicant who quit employment is not disqualified from receiving unemployment benefits if the applicant quit “because of a good reason caused by the employer.” Minn. Stat. § 268.095, subd. 1(1). A “good reason” is a reason “(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 remaining in the employment.” *Id.*, subd. 3(a) (2006). Whether an employee had good reason to quit is a question of law, which we review *de novo*. *Johnson v. Walch & Walch, Inc.*, 696 N.W.2d 799, 800 (Minn. App. 2005), *review denied* (Minn. July 19, 2005).

James’s wage while working at MPHA through Masterson was constant throughout her nine months of employment there. Although James requested a raise, Masterson declined the request because there was a “contracted rate” at which Masterson could bill

MPHA, which determined the rate that Masterson was able to pay James. James's disappointment at not obtaining a raise, though understandable, is not, under the statute, a reason that would "compel an average, reasonable worker to quit and become unemployed rather than remaining in the employment." Minn. Stat. § 268.095 subd. 3(a). This is not a situation in which James's pay was reduced or a situation in which the employer breached a promise to increase the rate of pay. *See Rootes v. Wal-Mart Assocs., Inc.*, 669 N.W.2d 416, 419 (Minn. App. 2003) (holding that employee quit with good reason because employer substantially reduced wages and hours); *Hayes*, 665 N.W.2d at 554 (holding that employee quit with good reason because employer failed to give promised pay raise). Thus, the ULJ did not err by concluding that James did not have a good reason for quitting her employment with Masterson.

Affirmed.