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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-4**

Richard M. Anderson,
Relator,

vs.

Bredemus Hardware Company, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed September 4, 2012
Affirmed
Peterson, Judge**

Department of Employment and Economic Development
File No. 28456665-3

Richard M. Anderson, St. Paul, Minnesota (pro se relator)

Bredemus Hardware Company, Inc., St. Paul, Minnesota (respondent employer)

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

Considered and decided by Hudson, Presiding Judge; Peterson, Judge; and
Muehlberg, Judge.*

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

UNPUBLISHED OPINION

PETERSON, Judge

In this certiorari appeal from a determination by an unemployment-law judge (ULJ) that relator did not have a good reason to quit his employment, relator argues that his good reasons included alcohol and drug use on the employer's premises, exposure to paint fumes without ventilation, and lack of accommodation for his lifting restrictions. We affirm.

FACTS

Relator Richard M. Anderson worked as a city desk worker for respondent Bredemus Hardware Company, Inc., (the company) from June 1990 until August 2011. Initially, relator worked full time, but, in April 2004, his hours were reduced to 32 hours per week.

Relator admitted at the hearing before the ULJ that he walked off the job. He testified that he asked a subordinate to help him lift a heavy package, and the subordinate said he was too busy. Relator testified that he was in charge in the backroom or warehouse and that the subordinate should have assisted him. Relator went to the company president and told her that he was not quitting and to call him "when you square away that backroom." The following day, relator went to the workplace and returned his keys and removed his personal belongings from his desk and left.

Relator filed a claim for unemployment benefits with respondent Minnesota Department of Employment and Economic Development. A department adjudicator determined that relator had quit employment without a good reason caused by the

employer and, therefore, was ineligible for unemployment benefits. Relator appealed to a ULJ.

At the hearing before the ULJ, the company president testified that relator “came and talked to me and said that he couldn’t continue without any help and unless I made it more organized here, he was just walking out and to call him when things were more organized.” Relator had not previously complained to the president about the working conditions. The president testified that, when relator walked out, the company was very short staffed due to vacations and sick leave. About two weeks later, before the situation changed, she received relator’s claim for unemployment benefits, so she understood then that he had quit. The president testified that she had not asked relator to turn in his keys or clean out his desk and that she did not tell him that he was discharged. At the hearing before the ULJ, relator submitted three pictures that showed cigarette butts on the workplace floor and claimed that secondhand smoke exacerbated his emphysema.

The ULJ determined that relator had quit his employment without a good reason caused by the employer. On relator’s request for reconsideration, the ULJ affirmed the initial decision. This certiorari appeal followed.

DECISION

This court reviews a ULJ’s decision to determine whether substantial rights were prejudiced because the findings, inferences, conclusion, or decision are unsupported by substantial evidence in view of the record as a whole or affected by an error of law. Minn. Stat. § 268.105, subd. 7(d) (2010). This court views factual findings in the light

most favorable to the decision and defers to the ULJ's credibility determinations. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006).

“Whether an employee has been discharged or voluntarily quit is a question of fact.” *Nichols v. Reliant Eng'g & Mfg., Inc.*, 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).

Although relator testified that he told the company president that he was not quitting, he admits that he walked off the job, and, the next day, turned in his keys and removed his personal belongings from his desk. Relator did not contact the company again before filing a claim for unemployment benefits. The company did not tell relator that he had been terminated or take any other action that would lead a reasonable employee to believe that he had been discharged.

Generally, a person who quits employment is ineligible to receive unemployment benefits, but there are statutory exceptions to this rule. Minn. Stat. § 268.095, subd. 1 (2010). One of these exceptions is when an employee quits because of a good reason caused by the employer. *Id.*, subd. 1(1). A good reason caused by the employer for quitting 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) (2010). “If an applicant was subjected to adverse working conditions by the employer, the applicant must complain to the employer and give the employer a reasonable opportunity to correct the adverse working conditions before that may be considered a good reason caused by the employer for quitting.” Minn. Stat. § 268.095, subd. 3(c) (2010).

Relator argues that he was subjected to three unsafe working conditions: alleged alcohol and drug use; the health hazard of secondhand smoke and paint fumes at the workplace; and the company’s failure to provide him with assistance to lift a box that weighed more than 70 pounds, despite the fact that the company knew when relator was hired that he had a lower-back impairment. There is no evidence in the record that relator ever complained about the first two conditions, and the company president testified that he had not complained about working conditions before he walked off the job.

Regarding the third condition, although relator expressed general dissatisfaction with working conditions in the warehouse, relator quit after a single incident in which a subordinate did not follow his order, and he did not elaborate on any other complaints that he had. A good reason for quitting 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); *see also Ryks v. Nieuwsma Livestock Equip.*, 410 N.W.2d 380, 382 (Minn. App. 1987) (stating that good cause to quit does not include “mere dissatisfaction with working conditions”).

The ULJ did not err in determining that relator is ineligible to receive unemployment-compensation benefits because he quit his employment without a good reason caused by the employer.

Affirmed.