STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1078

Anne Craigmyle,
Relator,

vs.

Minnesota Housekeeping Services, LLC,
Respondent,

Department of Employment and Economic Development,
Respondent.

Filed February 22, 2011
Affirmed
Toussaint, Judge

Department of Employment and Economic Development
File No. 24573127-4

Anne Craigmyle, St. Paul, Minnesota (pro se relator)

Minnesota Housekeeping Services, LLC, Eagan, Minnesota (respondent)

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

Considered and decided by Bjorkman, Presiding Judge; Toussaint, Judge; and Stoneburner, Judge.

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

TOUSSAINT, Judge

Relator Anne Craigmyle challenges the unemployment-law judge's (ULJ) decision that she was ineligible for unemployment benefits because she was on a voluntary leave of absence. We affirm.

D E C I S I O N

Our review of this certiorari appeal is governed by Minn. Stat. § 268.105, subd. 7(d) (2008), which states:

> The Minnesota Court of Appeals may affirm the decision of the unemployment law judge or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because the findings, inferences, conclusion, or decision are:
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> (1) in violation of constitutional provisions;
> (2) in excess of the statutory authority or jurisdiction of the department;
> (3) made upon unlawful procedure;
> (4) affected by other error of law;
> (5) unsupported by substantial evidence in view of the entire record as submitted; or
> (6) arbitrary or capricious.

We view the ULJ's findings in the light most favorable to the decision, give deference to the ULJ's credibility determinations, and will not disturb the ULJ's factual findings when the evidence substantially sustains them. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006).

A brief explanation of the dates referred to herein is warranted. Relator argues that she was not on a voluntary leave of absence from September 20, 2009, to February 6,

2010. The ULJ, meanwhile, found that relator was on a voluntary leave from September 23, 2009, to February 2, 2010. The ULJ may have erred by concluding that relator was on a voluntary leave of absence while hospitalized from September 23 through 29, 2009. *See* Minn. Stat. § 268.085, subd. 13a(a) (2008) (defining a voluntary leave of absence as occurring "when work that the applicant *can then perform* is available with the applicant's employer but the applicant chooses not to work" (emphasis added)). But relator did not establish her benefit account until November 29, and individuals are not eligible for unemployment benefits for any week preceding the effective date of their unemployment-benefit account. Minn. Stat. § 268.085, subd. 2(1) (Supp. 2009). The ULJ's conclusion that relator was ineligible for benefits for the time period before November 29, while arguably based on an error of law, was nonetheless correct and does not require reversal. *See Katz v. Katz*, 408 N.W.2d 835, 839 (Minn. 1987) ("[A reviewing court] will not reverse a correct decision simply because it is based on incorrect reasons."). We therefore focus our decision on whether the ULJ erred by finding that relator was ineligible for unemployment benefits from November 29, 2009, to February 2, 2010.

"An applicant on a voluntary leave of absence is ineligible for unemployment benefits for the duration of the leave of absence." Minn. Stat. § 268.085, subd. 13a(a). "A leave of absence is voluntary when work that the applicant can then perform is available with the applicant's employer but the applicant chooses not to work." *Id.* "An applicant on an involuntary leave of absence is not ineligible under this subdivision." *Id.*

Relator established an unemployment-benefit account and began requesting benefits on November 29, 2009. She indicated that, after establishing her account, she called her employer on a weekly basis seeking to return to work. The ULJ found that relator "called [the employer] and said she wanted to return to work, but also stated that she would be going to Arizona for awhile." The ULJ also found: "There was a great deal of miscommunication between [relator and the employer] after [relator] left her treatment program and until she understood that she needed to provide a doctor's release to return to work."

Relator argues that she asked her employer if she needed to provide a doctor's note about returning to work and was told that she would not need one. While not explicit, the ULJ's finding that there was miscommunication between relator and her employer "until [relator] understood that she needed to provide a doctor's release" is an implicit finding that relator was required to provide a doctor's release stating that she was able to return to work. This finding is supported by the record, as relator's supervisor testified at the evidentiary hearing that the employer's policy required medical authorization before relator could return to work.

Arguably, if relator had submitted a doctor's note that allowed her to work without restrictions and her employer did not allow her to return to her previous schedule, her leave of absence might have been involuntary. But relator did not to take this step.[1]

[1] The record contains references to a medical authorization or release that relator appears to have submitted to her employer sometime around January 20, 2010. The employer acknowledged it had received the document but informed relator that the document did not meet the employer's requirements and advised her that she could "either send [her

Because relator did not comply with a condition of her return to employment—as implicitly found by the ULJ—by returning a doctor's authorization to facilitate her return to work, her leave of absence was voluntary. The ULJ therefore correctly determined that she was ineligible for unemployment benefits. *See* Minn. Stat. § 268.085, subd. 13a(a) (stating that persons on voluntary leave of absence from employment are ineligible for unemployment benefits).

Because our affirmance on this ground covers the entire time period for which the ULJ found relator to be ineligible for benefits, we need not address respondent Department of Employment and Economic Development's alternative theory that relator was ineligible because she was not available for suitable employment as she may have had restrictions upon the number of hours she was able to work or was absent from the labor market. *See* Minn. Stat. § 268.085, subds. 1, 15 (Supp. 2009) (explaining that an applicant who is absent from the labor market for personal reasons or has restrictions on the hours of the day or days of the week that the applicant can work that are not normal for the applicant's usual occupation or other suitable employment is "not available for suitable employment" and is ineligible for unemployment benefits).

Affirmed.

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employer] a release from [her] physician that [she is] able to work full time without restriction or [she] may send [her employer] a release allowing [the employer] to ask [her] physician directly." The ULJ did not make any findings as to what this document was, and the document was not submitted at the evidentiary hearing. Without a copy of the document in the record, we cannot reverse the ULJ's decision based on relator allegedly submitting sufficient medical authorization to her employer in January 2010.