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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1229**

Julie Fosdick,
Relator,

vs.

Community Solutions of MN, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed March 22, 2011
Affirmed
Johnson, Chief Judge**

Department of Employment and Economic Development
File No. 25019889-3

Julie Fosdick, Kermit, Texas (pro se relator)

Community Solutions of MN, Inc., Princeton, Minnesota (respondent)

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

Considered and decided by Johnson, Chief Judge; Stauber, Judge; and Crippen,
Judge.*

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

UNPUBLISHED OPINION

JOHNSON, Chief Judge

Julie Fosdick quit her employment with Community Solutions of MN, Inc., so that she could join her husband in moving to Texas. An unemployment law judge determined that she is ineligible for unemployment benefits. We affirm.

FACTS

Fosdick worked for Community Solutions from August 2007 until March 2010. The company operates two group homes in the city of Albertville for adults with traumatic brain injuries or mental-health issues.

Since 2001, Fosdick's husband has suffered serious back pain due to a degenerative disc disease, which prevents him from performing certain physical activities and forced him into early retirement. In December 2009, Fosdick's husband traveled to Texas and found that the climate there alleviated some of his pain. In February 2010, Fosdick gave notice to Community Solutions of her intention to quit her job so that she could move to Texas with her husband. She continued working until March 12, 2010. She and her husband thereafter moved to Texas.

In April 2010, Fosdick applied for unemployment benefits in Minnesota. The Department of Employment and Economic Development (DEED) determined that Fosdick is ineligible because she had quit her job. That determination was upheld by an unemployment law judge (ULJ) on Fosdick's administrative appeal and subsequent request for reconsideration. Fosdick appeals by way of a writ of certiorari.

DECISION

Fosdick argues that the ULJ erred by determining that she is ineligible for unemployment on the ground that she quit her employment with Community Solutions. This court reviews a ULJ's decision denying benefits 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. *See* Minn. Stat. § 268.105, subd. 7(d) (2008). The ULJ's factual findings are viewed in the light most favorable to the decision being reviewed. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). The ultimate determination whether an employee is eligible for unemployment benefits is a question of law, to which we apply a *de novo* standard of review. *Id.*

An employee who quits employment is ineligible for unemployment benefits. Minn. Stat. § 268.095, subd. 1 (Supp. 2009). "A quit from employment occurs when the decision to end the employment was, at the time the employment ended, the employee's" decision. *Id.*, subd. 2(a) (Supp. 2009). But an employee who quit employment is nonetheless eligible for benefits if the employee made the decision to quit

(i) because the applicant's serious illness or injury made it medically necessary that the applicant quit; or (ii) in order to provide necessary care because of the illness, injury, or disability of an immediate family member of the applicant. This exception only applies if the applicant informs the employer of the medical problem and requests accommodation and no reasonable accommodation is made available.

Id., subd. 1(7).

The ULJ determined that Fosdick is ineligible for unemployment benefits because the exception in section 268.095, subdivision 1(7), does not apply. The ULJ reasoned that Fosdick quit because she wanted to move to Texas with her husband, not because she needed to provide him with necessary care, as required by the statutory exception. *See id.*

On appeal, Fosdick does not squarely address the ULJ's reasoning; she does not argue that she quit her job to give necessary care to her husband. When asked by the ULJ whether she must provide necessary care for her husband, Fosdick responded that there are "some domestic things" she does but that her domestic duties do not interfere with her ability to be employed in Texas. Fosdick's testimony indicates that her husband did not require "necessary care," as that term is used in the statute. *See id.* Fosdick also testified that she was motivated to quit her job simply because she wanted to live with her husband in Texas. That reason for quitting is understandable, but it is not a reason that satisfies any statutory exception to the general rule that an employee is ineligible for benefits after quitting a job.

The evidence in the agency record supports the ULJ's finding that Fosdick quit her job and that her reasons for quitting are not within the scope of section 268.095, subdivision 1(7). Thus, the ULJ did not err in determining that Fosdick is ineligible to receive unemployment benefits. In light of that conclusion, we need not consider DEED's arguments that Fosdick's husband does not suffer from a "disability" or that no reasonable accommodation was requested or was possible. *See id.*

Affirmed.