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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1412**

Cindy Kohn,
Relator,

vs.

Paper & Graphics, Inc.,
Respondent,

Department of Employment
and Economic Development,
Respondent.

**Filed March 29, 2011
Affirmed
Crippen, Judge***

Department of Employment and Economic Development
File No. 25098227-3

Cindy L. Kohn, Oronoco, Minnesota (pro se relator)

Paper & Graphics, Inc., Rochester, Minnesota (respondent)

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

Considered and decided by Minge, Presiding Judge; Johnson, Chief Judge; and
Crippen, Judge.

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

UNPUBLISHED OPINION

CRIPPEN, Judge

Relator Cindy Kohn challenges the unemployment law judge's (ULJ) determination that she is ineligible to receive unemployment benefits, arguing that she quit her employment because of a good reason caused by her employer, respondent Paper & Graphics, Inc. Because relator failed to notify her employer of her objections to behavior of a co-employee, her cause to quit is not attributable to her employer, and we must affirm.

FACTS

Relator worked for more than seven years as a graphic designer for respondent. For six years, relator worked with a designer, with whom she had a difficult relationship. Relator's coworker reportedly was short-tempered and often used obscenities at work; relator testified that over the course of six years, the coworker directed angry outbursts at her six or seven times. Five years before relator left her employment, she and the coworker had an especially angry encounter; her supervisor directed the two women to sit down together and work things out. Although relator testified that her coworker's outbursts continued, she repeatedly chose to angrily respond to the coworker but never again approached her supervisor about the problem.

On April 12, 2010, relator and her coworker began exchanging obscenities and hand gestures after the coworker accused relator of not responding to a question. Relator abruptly decided to quit her employment, telling her supervisor that she would no longer take the coworker's "abuse." At her supervisor's request, relator submitted a written

resignation, simply stating that she was resigning effective immediately. A second supervisor contacted relator by telephone, asking whether her decision was final and whether she had changed her mind. Relator assured the second supervisor that her decision was final.

A representative of respondent Department of Employment and Economic Development determined that relator was ineligible for unemployment benefits because she quit her employment. At a review hearing requested by relator, the ULJ affirmed the department's decision and subsequently ratified the decision when relator asked that it be reconsidered.

D E C I S I O N

This court will reverse or modify the ULJ's decision if, among other reasons, it represents an error of law or is unsupported by substantial evidence. Minn. Stat. § 268.105, subd. 7(d) (2010). We review the ULJ's factual findings in the light most favorable to the decision and defer to the ULJ's credibility determinations. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). Although the ULJ determines as a question of fact whether an employee committed a certain act, we review de novo whether an employee's act is misconduct, as a question of law. *Id.*

An employee who quits his or her employment is ineligible to receive unemployment benefits, subject to certain exceptions; in this instance, relator asserts that she quit her employment because of a good reason caused by the employer, an exception found at Minn. Stat. § 268.095, subd. 1(1) (2010). The statute defines a "good reason caused by the employer" as 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 remaining in the employment.” Minn. Stat. § 268.095, subd. 3(a) (2010). Further, if the reason cited is based on adverse working conditions, the employee must complain to the employer and give the employer a reasonable opportunity to correct the situation before quitting. *Id.*, subd. 3(c) (2010).

The fact that an “employee experiences irreconcilable differences with others at work or . . . the employee is simply frustrated or dissatisfied with his working conditions” does not by itself provide a good reason caused by the employer for quitting employment. *Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 14 (Minn. App. 1986); *see also Bongiovanni v. Vanlor Inv.*, 370 N.W.2d 697, 699 (Minn. App. 1985) (concluding that “irreconcilable differences” or personality conflicts with employer do not provide employee with a good reason to quit attributable to the employer); *Foy v. J.E.K. Indust.*, 352 N.W.2d 123, 125 (Minn. App. 1984) (stating that dissatisfaction with employer does not provide a good reason to quit attributable to the employer).

Relator gave as her reason for quitting the continuing “abuse” of her coworker, an adverse working condition, but she neither complained nor gave the employer an opportunity to correct the situation. Relator argues that the employer was aware of the coworker’s abusive personality, but the employer testified that there was “some vulgar language out of pretty much everybody that works here” and that arguments among the employees were not uncommon. The employer was aware of one incident involving relator and the coworker, but that had occurred more than five years before the final

argument. Relator testified that she had not complained to the employer about other incidents. Although relator told the employer that she was quitting because of the coworker's abusive behavior and the employer's refusal to deal with the conflict, relator's reporting of the abusive behavior only when she quit did not give the employer an opportunity to correct the situation.

Under these circumstances, the ULJ did not err by concluding that relator quit her employment without good reason caused by the employer.

Affirmed.