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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1709**

Deborah Kowalzek,
Relator,

vs.

Mac Manufacturing, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed June 27, 2011
Affirmed
Bjorkman, Judge**

Department of Employment and Economic Development
File No. 25544193-3

Deborah Kowalzek, Brainerd, Minnesota (pro se relator)

Mac Manufacturing, Inc., Brainerd, Minnesota (respondent)

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

Considered and decided by Hudson, Presiding Judge; Halbrooks, Judge; and
Bjorkman, Judge.

UNPUBLISHED OPINION

BJORKMAN, Judge

Relator challenges the determination of the unemployment-law judge (ULJ) that she is ineligible for benefits because she quit her employment without a medical need to do so or good reason attributable to her employer. We affirm.

FACTS

Relator Deborah Kowalzek began working for Mac Manufacturing, Inc. in December 2009. Kowalzek was receiving health insurance through MinnesotaCare and accepted the position at Mac with the understanding that she would not receive health insurance through her employment. She subsequently became eligible for insurance from Mac, which made her ineligible for MinnesotaCare. Kowalzek was concerned because the new insurance provider considered Kowalzek's migraine headaches a pre-existing condition and imposed a nine-month waiting period for coverage of her migraine medication, which costs \$650 per month. In response, Kowalzek quit her job and moved to live with family elsewhere. She notified Mac of her decision, explaining that she was moving out of town, and ended her employment June 9, 2010.

Kowalzek subsequently applied to the Minnesota Department of Employment and Economic Development (DEED) for unemployment benefits. A DEED adjudicator determined that Kowalzek is ineligible for benefits because she quit "to relocate for personal reasons." Kowalzek appealed. After an evidentiary hearing, the ULJ determined that Kowalzek is ineligible for benefits because she quit her employment without medical necessity or good cause.

Kowalzek sought reconsideration and submitted a letter from her doctor saying that Kowalzek “has severe migraines that are triggered by the fumes of the paint and clear coat in her work place” and recommending that Kowalzek “avoid that kind of environment.” The ULJ declined to consider the letter because Kowalzek did not demonstrate that she had good cause for failing to submit it during the hearing. The ULJ also reasoned that Kowalzek quit because of the insurance issues, not the work itself or her migraines, and affirmed the ineligibility determination. This certiorari appeal follows.

DECISION

This court reviews a ULJ’s decision to determine whether the findings, inferences, conclusion, or decision are “(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.” Minn. Stat. § 268.105, subd. 7(d) (2010). We review a ULJ’s findings of fact in the light most favorable to the decision and defer to the ULJ’s credibility determinations. *Peterson v. Nw. Airlines, Inc.*, 753 N.W.2d 771, 774 (Minn. App. 2008), *review denied* (Minn. Oct. 1, 2008). But we review de novo the ultimate determination as to an employee’s eligibility for unemployment benefits. *Lolling v. Midwest Patrol*, 545 N.W.2d 372, 375, 377 (Minn. 1996).

It is undisputed that Kowalzek quit her employment at Mac. An employee who quits employment generally is ineligible for unemployment benefits, but there are several

exceptions to this rule. Minn. Stat. § 268.095, subd. 1 (2010). Based on the evidence presented at the hearing, the ULJ considered two of these exceptions—medical necessity and good cause—and concluded that neither applies here. We address each of these exceptions in turn.

Medical necessity

An employee who quits may be eligible for unemployment benefits if a “serious illness or injury made it medically necessary” to quit. Minn. Stat. § 268.095, subd. 1(7). “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.*

Kowalzek argues that she falls within this exception. We disagree. Although Kowalzek testified that she suffers from migraines, arguably a “serious illness,” and requires regular medication to treat them, the other requirements of Minn. Stat. § 268.095, subd. 1(7), are not satisfied.

First, Kowalzek never told Mac about her migraines or requested accommodation. Because the medical-necessity exception requires an employee to do both, *see id.*, Kowalzek’s failure to do so supports the ULJ’s conclusion that the exception is inapplicable here. *See Prescott v. Moorhead State Univ.*, 457 N.W.2d 270, 273 (Minn. App. 1990) (concluding that medical-necessity exception did not apply because employee did not inform employer of his serious depression before quitting).

Second, the record does not support the argument that Kowalzek quit because her migraines made it medically necessary for her to do so. Kowalzek did not testify or

present any other evidence at the hearing that her migraines made it “medically necessary” for her to quit. To the contrary, Kowalzek testified that she had been experiencing migraines for years, during which time she did precisely the same type of work she was doing when she quit. Kowalzek acknowledges that she worked “doing [a] similar job” for ten years but asserts that the medical insurance she had during those years enabled her to take medication. This argument merely establishes that Kowalzek knew that she was able to perform the type of tasks required of her with appropriate medication to manage her condition.

The medical evidence Kowalzek sought to submit on reconsideration does not alter this conclusion. The ULJ properly declined to consider the doctor’s letter because Kowalzek provided no explanation as to why she failed to provide it at the time of the hearing. *See* Minn. Stat. § 268.105, subd. 2(c) (2010) (prohibiting consideration of evidence not presented at the evidentiary hearing unless “there was good cause for not having previously submitted that evidence”). But even if the letter is considered, the date of the letter (more than two months after she quit) and Kowalzek’s testimony at the hearing establish that Kowalzek did not quit because her doctor advised her to do so or even because she believed that quitting was medically necessary. Rather, she quit because she was concerned about her ability to afford her medications under her employer-furnished health insurance.

Because the record evidence amply establishes that Kowalzek neither informed Mac that she suffered from migraines for which she required accommodation nor quit because her migraines made it medically necessary for her to do so, we conclude that the

ULJ did not err in determining that Kowalzek is not entitled to unemployment benefits under the medical-necessity exception.

Good cause

An employee who quits may be eligible for unemployment benefits if he or she “quit the employment because of a good reason caused by the employer.” Minn. Stat. § 268.095, subd. 1(1). A good reason caused by the employer is 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.” *Id.*, subd. 3(a) (2010). To fall within this exception, the employee must complain to the employer about the condition to afford the employer an opportunity to cure the adverse condition. *Id.*, subd. 3(c) (2010).

The record supports the ULJ’s determination that Kowalzek did not quit for a good reason caused by her employer. Her inability to afford certain medical expenses relates to the terms of her health insurance rather than her working conditions. There is no evidence that Mac was responsible for the subject insurance term and we conclude it is not “directly related to the employment.” *See id.*, subd. 3(a). And an employer’s willingness to provide health-insurance benefits to employees would not compel an average, reasonable worker to quit. Moreover, as discussed above, Kowalzek failed to inform her employer that she experiences migraines, was unable to work because of them, and was concerned about the cost of medication under the new insurance plan. *See id.* Although Kowalzek’s concerns may have afforded her a good personal reason to quit,

they do not satisfy the requirements of Minn. Stat. § 268.095, subds. 1(1), 3. *See Kehoe v. Minn. Dep't of Econ. Sec.*, 568 N.W.2d 889, 891 (Minn. App. 1997) (stating that “[a] good personal reason does not equate with good cause” to quit (quotation omitted)). Accordingly, we conclude that the ULJ did not err by determining that Kowalzek is not entitled to unemployment benefits under the good-cause exception.

In sum, the record amply supports the ULJ’s conclusion that Kowalzek is ineligible for unemployment benefits because she quit her employment and does not fall within a statutory exception to ineligibility.

Affirmed.