STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1748

Steven Csargo,
Relator,

vs.

MSK Associates, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

Filed August 1, 2011
Affirmed; motion denied
Ross, Judge

Department of Employment and Economic Development
File No. 25474416-3

Steven Csargo, Browerville, Minnesota (pro se relator)

MSK Associates, Inc., Baxter, Minnesota (respondent employer)

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

Considered and decided by Ross, Presiding Judge; Stoneburner, 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.

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

ROSS, Judge

Steven Csargo quit his retail sales job after his employer refused to allow him to shift his "lunch break" to four to five p.m. to attend a class that was unrelated to his job. He now appeals an unemployment-law judge's determination that he is ineligible to receive unemployment benefits because he quit without good reason caused by his employer. Because the record does not reveal circumstances that would compel a reasonable person to quit and because Csargo's challenges to the unemployment-law judge's factual findings are irrelevant to the propriety of the decision, we affirm.

FACTS

Steven Csargo was a retail sales associate at MSK Associates, Inc., doing business as Sears. He also had a real estate broker's license unrelated to his Sears job. In April 2010, he realized he needed to attend two more continuing education real-estate classes to maintain that license. His boss, Mary Kolkind, allowed him to arrive to work one and a half hours late on April 22 to attend the first class. But she denied his request to leave work from four to five p.m. on April 23 to attend the second.

Csargo worked on April 23 and renewed the request, asking his managers and Kolkind if he could defer his one-hour lunch break to four to five. They told him no. Kolkind told him, "[Y]ou need to make a choice, either stay on the floor at Sears or go to the class. You have to make that choice." Csargo responded, "[W]ell, if that's the choice you're giving me well then I guess I'll have to quit." Csargo nevertheless continued working but again asked Kolkind if he could leave at four to attend the class. Kolkind

answered, "[N]o, it's too late for that." Csargo walked out and soon applied for unemployment benefits.

The Minnesota Department of Employment and Economic Development (DEED) determined that Csargo was ineligible for benefits. He appealed administratively, and the unemployment-law judge (ULJ) determined that he was ineligible because he quit and no exceptions applied. The ULJ denied his request for reconsideration. Csargo now appeals to this court by certiorari.

D E C I S I O N

Csargo asks this court to reverse the ULJ's determination that he is ineligible for unemployment benefits. We may remand, reverse, or modify a ULJ's decision if a relator's substantial rights were prejudiced by fact findings that are unsupported by substantial evidence or by a decision that is affected by an error of law, made upon unlawful procedure, or arbitrary and capricious. Minn. Stat. § 268.105, subd. 7(d)(3)–(6) (2008). We review findings of fact in the light most favorable to the ULJ's decision and give deference to the ULJ's credibility determinations. *Skarhus v. Davanni's Inc*., 721 N.W.2d 340, 344 (Minn. App. 2006).

Csargo claims that he is eligible for unemployment benefits because he had good reason to quit caused by his employer. An applicant who quit his employment generally is ineligible for unemployment benefits. Minn. Stat. § 268.095, subd. 1 (Supp. 2009). But an exception applies when he quit because of a good reason caused by his employer. *Id.*, subd. 1(1). A good reason to quit caused by an employer is one that is "directly related to the employment and for which the employer is responsible," is adverse to the employee,

and "would compel an average, reasonable worker to quit and become unemployed." *Id.*, subd. 3(a) (2008). Whether an employee had a good reason to quit is a question of law that we review de novo. *Munro Holding, LLC v. Cook*, 695 N.W.2d 379, 384 (Minn. App. 2005).

We hold that a reasonable employee would not quit and become unemployed because his employer denied his request to take an hour off from his scheduled shift to attend a class to maintain a license unrelated to his job.

Csargo challenges four of the ULJ's findings, which he claims undermine her decision. He first challenges the finding that he waited until "the last minute" to request his one hour off. He says that he telephoned Kolkind requesting the hour off one day in advance, which he says is not at "the last minute." Whether or not the request made only one day in advance is tardy, it was denied and a reasonable person would not quit because of that.

We also are not persuaded by Csargo's next challenge to the ULJ's finding that Sears "needed him on the [sales] floor." He asserts that there were three other salespersons working before Kolkind and another salesperson arrived. But the employer, not the employee, decides staffing levels, and, "needed" or not, Csargo was in no position to second-guess his employer's decision not to excuse him from his scheduled shift.

Csargo also challenges the ULJ's finding that he lacked planning regarding his real-estate classes, asserting that his class time had actually been changed with little notice to him. This contention is both contradicted and irrelevant. It is contradicted because Csargo's own hearing testimony indicated that he knew about his class times

before he requested the time off. And it is irrelevant because, even if the finding were unsupported, it is unnecessary to our holding that Csargo quit for no good reason caused by his employer. That is, even if Csargo was diligent and made the request for early departure from Sears as soon as he could, a reasonable employee still would not have quit work and become unemployed because Sears denied the request.

We also are not convinced by Csargo's last argument. He contends that the hearing testimony does not establish that Kolkind accepted his resignation. If Csargo is arguing that he never quit, the argument falls by his own testimony admitting he told Kolkind, "[W]ell, if that's the choice you're giving me well then I guess I'll have to quit." It is also undermined by his testimony that he walked out when his request was again denied.

Csargo urges that we reach a different conclusion based on evidence not presented to the ULJ. He moves that we accept and consider new evidence, and he offers a copy of his telephone records to prove that he telephoned Kolkind on April 22. Whether Csargo telephoned Kolkind on April 22 appears to be immaterial to the ULJ's decision. And matters not received into evidence at the hearing will not be considered on appeal. *Imprint Techs., Inc. v. Comm'r of Econ. Sec.*, 535 N.W.2d 372, 378 (Minn. App. 1995); Minn. R. Civ. App. P. 110.01. We therefore deny the motion and do not consider the evidence.

Affirmed; motion denied.