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

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A11-1440**

Teresa Ann Miller,  
Relator,

vs.

North Metro Spine Care Specialist, P.A.,  
Respondent,  
Department of Employment and Economic Development,  
Respondent.

**Filed May 7, 2012  
Affirmed  
Stauber, Judge**

Department of Employment and Economic Development  
File No. 27256202-3

Teresa Ann Miller, Nowthen, Minnesota (pro se relator)

North Metro Spine Care Specialist, P.A., Fridley, Minnesota (respondent employer)

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

Considered and decided by Stauber, Presiding Judge; Worke, Judge; and  
Harten, Judge.\*

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

## UNPUBLISHED OPINION

**STAUBER**, Judge

Relator challenges the decision by the unemployment law judge (ULJ) that relator is ineligible for unemployment benefits because she quit without good reason caused by her employer. Relator argues that the ULJ's decision is erroneous because she established that the number of hours her employer required her to work was excessive and constituted a good reason to quit. We affirm.

### FACTS

In August 2006, relator Teresa Ann Miller began working as a chiropractic assistant and office manager for respondent North Metro Spine Care Specialist, P.A. (North Metro). Her job duties included answering phones, checking in and out patients, calling patients to remind them of appointments, typing progress notes, responding to medical requests, setting up physicals, completing collection and billing work, and setting patients up for therapy.

North Metro is owned and operated by Dr. Wayne Dahl. Typically, Dahl was only at the Fridley office one day per week because he was frequently doing business in Florida. Nonetheless, Dahl was readily available by telephone. In addition to his own chiropractic practice, Dahl rented office space to other chiropractors and provided them with billing and scheduling services. Two of the offices to which Dahl provided billing and scheduling services were "start-up" offices located in Minneapolis and St. Paul, and relator was responsible for providing these services to these offices.

In May 2010, the massage therapist who sometimes helped relator with her duties left the Fridley office. Relator claimed that this resulted in “an increase in [her] duties.” Moreover, several chiropractors who rented office space from Dahl asked relator to perform tasks for them such as ultrasound therapy. And in December 2010, an additional clinic joined North Metro. The chiropractor from this clinic asked relator to work at their office in Edina until noon on Saturdays, and relator agreed. Relator claimed that the increase in workload caused her to feel “overwhelmed.”

Relator complained to several people at the clinic about her increasing workload. One of the chiropractors, Dr. Steven Petry, told relator that she needed to stop agreeing to perform tasks for the other chiropractors that were outside of her responsibility. Relator was also told that the other chiropractors intended to hire an assistant or intern to help relator with her duties. However, no additional staff was hired.

Relator tendered her two-week resignation notice on February 3, 2011, and subsequently established a benefit account with respondent Department of Employment and Economic Development (department). A department adjudicator initially determined that relator was eligible for benefits because she quit for good reason caused by her employer. North Metro appealed that determination and a de novo hearing was held.

At the hearing relator indicated that she was “required” to do the additional tasks such as the ultrasound therapy. Relator also testified that the extra time she put in was necessary because “[w]hen [she] started [her] job with North Metro . . . [she] was told that you don’t leave until all the documentation of the patients and everything was done.”

Conversely, Dahl testified that he “never” told relator that she had to stay at work until “she had completed all of her duties each day.” Dahl further testified that relator reported directly to him and that if other chiropractors asked her to perform tasks for them she was under no obligation to perform those tasks. According to Dahl, relator was aware of her obligations and had declined to help other chiropractors in the past.

The ULJ found that the more credible testimony demonstrated that relator was “not required to work the additional hours or perform the additional duties” asked of her by the other chiropractors. Instead, the ULJ concluded that none of the other chiropractors had authority over relator, and that it was her “responsibility . . . to limit her work to what was required of her.” The ULJ found that because relator agreed to do work that was not required of her, she quit without good reason caused by her employer. Thus, the ULJ concluded that relator was not eligible for unemployment benefits. Relator subsequently requested reconsideration with the ULJ, who affirmed. This certiorari appeal follows.

## **D E C I S I O N**

Relator challenges the ULJ’s decision that she is ineligible to receive benefits because she quit without good reason caused by her employer. This court reviews a ULJ’s ineligibility decision to determine whether substantial rights were prejudiced because the findings, inferences, conclusion, or decision are unsupported by substantial evidence in view of the record as a whole or affected by an error of law. Minn. Stat. § 268.105, subd. 7(d) (2010).

An employee who quits employment is ineligible to receive unemployment-compensation benefits unless a statutory exception applies. Minn. Stat. § 268.095, subd. 1 (2010). “[A] good reason [to quit] caused by the employer” is an exception to ineligibility. *Id.*, subd. 1(1). “A good reason caused by the employer” is a reason that “is directly related to the employment and for which the employer is responsible,” “is adverse to the worker,” and “would compel an average, reasonable worker to quit.” *Id.*, subd. 3(a)(1)-(3) (2010). This court reviews the ULJ’s factual findings “in the light most favorable to the decision” and defers to the ULJ’s credibility determinations. *Skarhus v. Davanni’s Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). The determination that an employee quit without good reason caused by the employer is a legal conclusion, that we review de novo. *Nichols v. Reliant Eng’g & Mfg., Inc.*, 720 N.W.2d 590, 594 (Minn. App. 2006).

Relator claims that she quit “due to the hours and working conditions that were attributable to [her] employer.” Relator contends that these conditions would compel an average, reasonable worker to quit. Thus, relator argues that the ULJ erred by concluding that she was ineligible for unemployment benefits.

A good reason to quit caused by the employer exists when working conditions combine to create “unreasonable demands of [the] employee that no one person could be expected to meet.” *Zepp v. Arthur Treacher Fish & Chips, Inc.*, 272 N.W.2d 262, 263 (Minn. 1978). “The test for whether there was good cause attributable to the employer . . . is whether the reason for quitting is compelling, real and not imaginary, substantial and not trifling, reasonable and not whimsical and capricious.” *Shanahan v.*

*Dist. Mem'l Hosp.*, 495 N.W.2d 894, 897 (Minn. App. 1993). An employee's frustration or dissatisfaction with her job or working conditions does not amount to a good reason caused by the employer to quit. *Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 14 (Minn. App. 1986).

Here, the ULJ found that relator reported only to Dahl and that relator was not required to perform the tasks asked of her by the other chiropractors. This finding is supported by the testimony of Dahl and Petry, who both testified that relator reported only to Dahl, and that relator was free to decline work from the other chiropractors that was in addition to her normal tasks. This testimony indicates that relator's increase in workload was not attributable to her own employer. Instead, Dahl and Petry's testimony indicates that the workload increase was attributable to relator's failure to turn down extra work. Such a conclusion indicates that relator did not quit for good reason caused by her employer. Although relator's testimony contradicts Dahl and Petry's testimony regarding the extent of her duties, the ULJ specifically found their testimony to be more credible and this court defers to the ULJ's credibility determinations. *See Skarhus*, 721 N.W.2d at 344 (stating that this court defers to the ULJ's credibility determinations). Therefore, the ULJ did not err by concluding that relator was ineligible for unemployment benefits.

**Affirmed.**