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STATE OF MINNESOTA
IN COURT OF APPEALS
A11-1821

Mark H. Corpron,
Relator,

vs.

Rayven, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

Filed July 30, 2012
Affirmed
Willis, Judge[*]

Department of Employment and Economic Development
File No. 27966907-3

Mark H. Corpron, Chaska, Minnesota (pro se relator)

Rayven, Inc., St. Paul, 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 Connolly, Presiding Judge; Worke, Judge; and Willis, Judge.

[*] Retired judge of the Minnesota Court of Appeals, serving 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

WILLIS, Judge

Relator challenges the decision of an unemployment-law judge (ULJ) that he failed to accept an offer of suitable employment and that he is therefore ineligible for unemployment benefits. We affirm.

FACTS

Relator Mark H. Corpron was employed by Gamma Vacuum LLC as a quality and research-and-development manager through April 13, 2011, and when he left, he was earning at an annual rate of $99,742. Corpron has a Master's of Science degree in mechanical engineering and has experience in medical and vacuum engineering. When his employment with Gamma Vacuum ended, Corpron applied for, and collected, unemployment benefits. In May 2011, Corpron attended GreenPOWER job-training classes for five days. Corpron also attended SolidWorks job-training classes for four additional days in May and enrolled in an online class that ran from May 20 through December 30.

On May 23, respondent Rayven, Inc. offered Corpron a full-time position as a quality-and-process engineering manager with an annual salary of $85,000. The position was based in St. Paul and required occasional travel to Owatonna; Corpron lives in Shakopee. Corpron accepted the position on May 27 and was scheduled to begin work on June 13. In the interim, Corpron continued to interview for other positions. On June 10, Corpron told Rayven he had changed his mind and would not take the job offer. Corpron attended SolidWorks classes on eight additional days in June.

In a subsequent request for information, Corpron told respondent Minnesota Department of Employment and Economic Development (DEED) that he had rejected Rayven's offer of employment. In July, DEED issued an ineligibility determination based on Corpron's refusal or avoidance of the job offer from Rayven. Corpron appealed the determination, and the ULJ held an evidentiary hearing. The ULJ issued her determination, concluding that Corpron was ineligible for employment benefits because he rejected an offer of suitable employment without good cause. Corpron requested reconsideration, and the ULJ affirmed her decision. This certiorari appeal follows.

D E C I S I O N

I.

When reviewing a ULJ's decision, this court may affirm, remand for further proceedings, or reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because the findings, inferences, conclusion, or decision are "made upon unlawful procedure; . . . affected by other error of law"; or "unsupported by substantial evidence in view of the entire record as submitted." Minn. Stat. § 268.105, subd. 7(d) (2010).

This court views 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). We will not disturb the ULJ's factual findings when they are supported by substantial evidence in the record. *Id.* Whether an employee is eligible for unemployment benefits under the facts as found by the ULJ, however, is a question of law, which we review de novo. *Id.*

Corpron challenges the ULJ's determination that he rejected an offer of suitable employment without good cause. An applicant is ineligible for unemployment benefits for eight weeks if he fails to accept an offer for suitable employment without good cause. Minn. Stat. § 268.085, subd. 13c(a)(2) (2010). *Markel v. City of Circle Pines*, 479 N.W.2d 382, 284 (Minn. 1992).

Suitable Employment

Corpron first contends that the offer from Rayven was not an offer of suitable employment. "Suitable employment means employment in the applicant's labor market area that is reasonably related to the applicant's qualifications." Minn. Stat. § 268.035, subd. 23a(a) (2010). Multiple factors are considered when determining whether employment is suitable for an applicant, including the degree of risk to health and safety, physical fitness, prior training, experience, length of unemployment, prospects for securing employment in the applicant's customary occupation, and the distance between the employment and the applicant's residence. *Id.* "[P]rimary consideration is given to the temporary or permanent nature of the applicant's separation from employment and whether the applicant has favorable prospects of finding employment in the applicant's usual or customary occupation at the applicant's past wage level within a reasonable period of time." *Id.*, subd. 23a(b) (2010). Whether an offer of employment is suitable is a question of fact. *Zielinski v. Ryan Co.*, 379 N.W.2d 157, 159 (Minn. App. 1985). We will not disturb a factual finding if it is supported by substantial evidence. *Skarhus*, 721 N.W.2d at 344.

Corpron argues that the long commute made the position at Rayven unsuitable. The record shows that Corpron would have had a daily commute from Chaska to St. Paul, a distance of approximately 35 miles. Corpron would also have had to travel to Owatonna occasionally, which would involve travel of approximately 65 miles. The offered position was primarily located in the Twin Cities metro area—where Corpron also lives—and was therefore in his labor market area. There is substantial evidence in the record to support the ULJ's determination that the commute was not unreasonable.

Corpron also argues that he had health-and-safety concerns with Rayven's job offer. During the evidentiary hearing, Corpron testified that he was concerned with a statement by the president at Rayven that there had been a few minor explosions in the past. But the ULJ discredited this testimony, reasoning that Corpron had accepted the job initially, demonstrating that his concern was not credible and was based on speculation.

The record also supports the ULJ's determination that Corpron's prior training and experience was reasonably related to the position offered by Rayven. Rayven offered Corpron the position of quality-and-process engineering manager. While Rayven operates in the "cutting and slitting" industry, Corpron offered no evidence to support his assertion that his experience in the vacuum and medical industry left him unqualified to do the job at Rayven. Corpron testified that he would require more training and that it would take longer for him to be promoted in the cutting-and-slitting industry, but that fact alone is not determinative as to whether the position at Rayven is reasonably related to Corpron's skills and experience. In fact, Rayven's offer of employment stated that it thought Corpron's "broad skill set . . . would be a strong addition to . . . Rayven."

Moreover, the ULJ found that the 15% reduction in pay did not make the job "unsuitable." Finally, we note that Corpron initially accepted the position with Rayven, demonstrating the suitability of the job offer.

In sum, the ULJ considered the relevant statutory factors, and we conclude that there is substantial evidence in the record to support the ULJ's factual determination that Corpron received an offer of suitable employment from Rayven.

Good Cause

Corpron also argues that he had good cause to reject the offer of employment from Rayven because he was in reemployment-assistance training. "'Good cause' is a reason that would cause a reasonable individual who wants suitable employment to fail to apply for, accept, or avoid suitable employment." Minn. Stat. § 268.085, subd. 13c(b) (2010). An applicant has good cause to reject an offer of suitable employment if he is in reemployment-assistance training. *Id.*, subd. 13c(b)(2). An applicant is in reemployment-assistance training when:

> (1) a reasonable opportunity for suitable employment for the applicant does not exist in the labor market area and additional training will assist the applicant in obtaining suitable employment;
> (2) the curriculum, facilities, staff, and other essentials are adequate to achieve the training objective;
> (3) the training is vocational or short term academic training directed to an occupation or skill that will substantially enhance the employment opportunities available to the applicant in the applicant's labor market area;
> (4) the training course is considered full time by the training provider; and
> (5) the applicant is making satisfactory progress in the training.

Minn. Stat. § 268.035, subd. 21c(a) (2010).

The ULJ concluded that Corpron's participation in training classes did not constitute enrollment in reemployment-assistance training within the meaning of the statute, in part because the ULJ found that a reasonable opportunity for suitable employment existed in Corpron's labor market area. Corpron testified at the hearing that he had several interviews during the time that he was participating in the classes, and he also submitted a detailed spreadsheet reflecting a number of phone- and on-site interviews both in- and out-of-state. There is substantial evidence in the record to support the ULJ's finding that Corpron had a reasonable opportunity for suitable employment in the labor market area. The ULJ therefore did not err in concluding that Corpron was not enrolled in reemployment-assistance training and that he therefore lacked good cause to reject the offer of suitable employment from Rayven.

II.

Corpron contends that he did not receive a fair hearing. A ULJ is to conduct the evidentiary hearing as an evidence-gathering inquiry and must ensure that all relevant facts are fully developed. Minn. Stat. § 268.105, subd. 1(b) (2010). The ULJ must run the hearing in such a way that the parties' rights to a fair hearing are protected. Minn. R. 3310.2921 (2011).

Corpron argues that he was "not allowed to present [his] evidence in the organized way that he submitted it, so the facts were not fully and clearly developed." But the record shows that the ULJ reviewed and accepted all Corpron's proposed exhibits. While the exhibits may not have been accepted in the order that Corpron proposed, that fact

does not indicate that Corpron's hearing was unfair. Moreover, as the only participant in the hearing, Corpron was given every opportunity to present his case. The record reflects that Corpron received the fair hearing to which he was entitled.

Affirmed.