

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-1431**

Clara J. Baerman,
Relator,

vs.

U.S. Department of Justice/Federal Prison System
(FIC 430/Dest 14),
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed May 13, 2013
Reversed
Klaphake, Judge***

Department of Employment and Economic Development
File No. 29579201-3

Darren M. Sharp, Schaefer Law Firm, LLC, Minneapolis, Minnesota (for relator)

U.S. Department of Justice/Federal Prison System (FIC 430/Dest 14), Kansas City,
Missouri (respondent employer)

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

Considered and decided by Peterson, Presiding Judge; Ross, Judge; and Klaphake,
Judge.

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

UNPUBLISHED OPINION

KLAPHAKE, Judge

In this certiorari appeal, relator Clara Baerman challenges the determination of the unemployment law judge (ULJ) that she is ineligible to receive unemployment benefits because she quit her employment without a good reason caused by her employer and that no exception to ineligibility applies. Because the specific facts of this case show that relator's fears for her safety were reasonable, we reverse the determination of ineligibility.

DECISION

When reviewing the decision of a ULJ, this court may affirm, remand for further proceedings, or reverse or modify if the substantial rights of the relator were prejudiced because the ULJ's decision was affected by errors of law or was otherwise "unsupported by substantial evidence in view of the entire record as submitted." Minn. Stat. § 268.105, subd. 7(d)(4), (5) (2012).

"The determination that an employee quit without good reason attributable to the employer is a legal conclusion, but the conclusion must be based on findings that have the requisite evidentiary support." *Nichols v. Reliant Eng'g & Mfg., Inc.*, 720 N.W.2d 590, 594 (Minn. App. 2006). "[W]e will not disturb the ULJ's factual findings when the evidence substantially sustains them." *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006).

Under Minnesota law, an employee who quits employment is generally not eligible for unemployment benefits subject to certain limited exceptions. Minn. Stat.

§ 268.095, subd. 1 (2012). An applicant is eligible for benefits even though they quit if they quit “because of a good reason caused by the employer.” *Id.*, subd. 1(1). Subdivision 3 defines “good reason caused by the employer,” and provides, in part:

(a) A good reason caused by the employer for quitting is a reason:

- (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.

(b) The analysis required in paragraph (a) must be applied to the specific facts of each case.

Id., subd. 3.

An employee who claims to have quit for good reason caused by the employer must have quit for reasons that are “compelling, . . . real and not imaginary, substantial and not trifling, reasonable and not whimsical or capricious.” *Ferguson v. Dep’t of Emp’t Servs.*, 311 Minn. 34, 44, 247 N.W.2d 895, 900 (1976). “The standard of what constitutes good cause is the standard of reasonableness as applied to the average man or woman, and not to the supersensitive.” *Id.* at 44 n.5, 247 N.W.2d at 900 n.5. A reasonable fear for one’s own safety in the place of employment is good cause for quitting. *Id.* at 44-45, 247 N.W.2d at 900-01.

Here, the ULJ concluded that relator’s reasons for quitting were not serious enough to compel an average, reasonable person to quit and become unemployed rather than remaining in the employment. We disagree. In relator’s first three years working as a nurse in the psychiatric wing of the prison, she witnessed little violence and was never

present during any violence towards the nursing staff. Yet, in a period of five months beginning in November 2011, relator was sexually assaulted by an inmate, witnessed another inmate assault her coworker, and was aware of at least one other inmate-on-employee assault that had occurred. Relator informed her supervisor that the assaults made her fear for her safety. In response to relator's assault, the prison placed the offending inmate in isolation and told relator the inmate was going to be transferred. At the time relator quit, the inmate still had not been transferred. Following the assaults, the prison offered no additional safety training, implemented no additional safety standards, and did not increase or change staffing in any way. When relator explained to her supervisor that she was quitting because she no longer felt safe at work, the supervisor replied that "prison nursing isn't for everyone."

"When examining an objection to working conditions that is based on an employee's safety concerns, [the ULJ] should determine whether the employee's concerns were reasonable, based on the information known to the employee at the time; not whether the conditions were 'in fact' safe." *Haskins v. Choice Auto Rental, Inc.*, 558 N.W.2d 507, 512 (Minn. App. 1997). Here, when the ULJ concluded that the conditions at the prison were not such that would compel a reasonable worker to quit, it stated that "[e]ven though [relator] feels otherwise, [the prison] has reasonable measures in place to protect staff." This is the wrong standard. When relator quit, she was aware that her job was dangerous, and was aware of the safety protocols the prison currently had in place. She was also aware that assaults in the prison were occurring with increasing frequency, that the safety measures in place did not prevent the assaults, and that the prison took no

action to address or improve employee safety in response to the assaults. The prison showed little compassion for the fact that relator and her coworkers had been assaulted. Relator's fear for her safety at the prison was based on her working conditions and would have caused an average, reasonable employee to quit rather than remaining in employment. *See* Minn. Stat. § 268.095, subd. 3(a).

We are to “narrowly construe the disqualification provisions of the statute in light of their remedial nature.” *Stagg v. Vintage Place Inc.*, 796 N.W.2d 312, 315 (Minn. 2011); *see also* Minn. Stat. § 268.031, subd. 2 (2012). The purpose of Minnesota unemployment law is to provide for workers “who are unemployed through no fault of their own.” Minn. Stat. § 268.03, subd. 1 (2012). Because relator's fears were reasonable and the prison failed to properly respond to the increase in assaults, we conclude that relator quit for good reason caused by her employer and is therefore eligible for unemployment benefits.

Reversed.