STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0572

Kim Grosland,
Relator,

vs.

Smyth Companies LLC,
Respondent,

Department of Employment and Economic Development,
Respondent.

Filed December 23, 2013
Affirmed
Halbrooks, Judge

Department of Employment and Economic Development
File No. 30877163-2

Kim Grosland, Austin, Minnesota (pro se relator)

Smyth Companies LLC, St. Paul, Minnesota (respondent)

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

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

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

HALBROOKS, Judge

Relator challenges the decision of an unemployment-law judge (ULJ) that she is ineligible for unemployment benefits. Because the record contains substantial evidence to support the ULJ's determination that Grosland quit her employment without good reason caused by the employer, we affirm.

FACTS

Relator Kim Grosland worked as an administrative assistant for respondent Smyth Companies LLC for 10 years. She resigned on December 31, 2012, due to frustrations with her work environment. Grosland identifies several incidents that led to her decision to quit.

The first incident involved Grosland's duty to schedule pre-employment physicals for prospective employees. The physical includes a drug screen. In August 2012, a prospective employee told Grosland that he might fail the drug screen because he had used marijuana. Grosland instructed the job applicant to discuss his concerns with the plant manager or his prospective supervisor and proceeded with scheduling the appointment. After she scheduled the physical, the plant manager told Grosland to "stretch out the time" of the appointment, meaning to reschedule it for a later date. Grosland complained to the plant manager that his request made her uncomfortable and reported to human resources her concern that the plant manager was trying to contravene the purpose of the pre-employment physical. She requested that a note be placed in her personnel file indicating her concern. Human resources granted the request.

The second incident occurred later that month when the plant manager told Grosland that she would either have to work additional hours or switch to part-time. Grosland contacted human resources and objected to any change in her schedule. Smyth chose not to alter Grosland's schedule.

The third incident concerned an employee who was paid for time he worked while allegedly intoxicated. On Saturday, December 22, 2012, a co-worker called Grosland on her day off to report that an employee had showed up to work intoxicated. Grosland relayed this information to four managers. On Saturday, December 29, Grosland received another call indicating that the same employee arrived to work intoxicated and was sent home early. When Grosland prepared the company's payroll the following Monday morning, she noticed that the approved timesheet for the employee accused of working while intoxicated included 1.5 hours of work on December 29. Because Grosland thought that Smyth should have terminated the employee and believed it was unethical to pay him for his time on December 29, she tendered her resignation and walked off the job that morning.

Grosland applied for unemployment benefits. Respondent Minnesota Department of Employment and Economic Development determined that Grosland is ineligible for benefits. Grosland appealed. Following an evidentiary hearing in which Grosland alone testified, a ULJ concluded that Grosland quit her employment without a good reason caused by the employer. The ULJ affirmed the decision on reconsideration. This certiorari appeal follows.

D E C I S I O N

We review a ULJ's decision denying benefits to determine whether the findings, inferences, conclusions, or decision are affected by an error of law, are unsupported by substantial evidence in view of the entire record, or are arbitrary or capricious. Minn. Stat. § 268.105, subd. 7(d) (2012).

A quit from employment disqualifies an applicant from receiving unemployment benefits unless a statutory exception applies. Minn. Stat. § 268.095, subd. 1 (2012). One exception governs applicants for benefits who quit employment for "a good reason caused by the employer." *Id.*, subd. 1(1). To qualify for this ineligibility exception, the applicant's reason for quitting must (1) be directly related to the employment and for which the employer is responsible; (2) be adverse to the applicant; and (3) compel an average, reasonable employee to quit and become unemployed. *Id.*, subd. 3(a) (2012). "The correct standard for determining whether relator's concerns were reasonable is the standard of reasonableness as applied to the average man or woman, and not to the supersensitive." *Nichols v. Reliant Eng'g & Mfg., Inc.*, 720 N.W.2d 590, 597 (Minn. App. 2006) (quotation omitted). Whether an applicant's reason for quitting constitutes good cause attributable to the employer is a question of law, which we review de novo. *Rowan v. Dream It, Inc.*, 812 N.W.2d 879, 883 (Minn. App. 2012).

Grosland argues she had a good reason to quit because the plant manager asked her to "stretch out" the timing of the pre-employment physical of the prospective employee who admitted to recently having used drugs. Grosland believes that practice is unethical. Although it was adverse to Grosland to be asked to engage in conduct that she

deems unethical, we cannot conclude that the average employee would be compelled to quit and become unemployed as a result of the plant manager's request. Not only did human resources take the remedial action that Grosland requested following the incident, but Grosland was never asked to "stretch out" any future appointments. Furthermore, dissatisfaction with a manager does not constitute a good reason to quit caused by an employer. *See Trego v. Hennepin Cnty. Family Day Care Ass'n*, 409 N.W.2d 23, 26 (Minn. App. 1987). Nor do irreconcilable differences with the employer, *Foy v. J.E.K. Indus.*, 352 N.W.2d 123, 123, 125 (Minn. App. 1984), *review denied* (Minn. Nov. 8, 1984), or frustrations with one's job translate to good cause to quit, *Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 14 (Minn. App. 1986). Therefore, Grosland's dissatisfaction with the plant manager's decision to reschedule the pre-employment physical of one prospective employee does not constitute a good reason to quit.

Grosland also argues that she had good cause to quit because Smyth paid an employee for time that he worked while allegedly intoxicated. Grosland believes this was a poor decision and thinks Smyth should have terminated the employee. But whether to terminate the employee or approve his timesheet was not Grosland's decision to make. Further, Grosland's objection to how Smyth handled this situation does not constitute good cause to quit. *See Foy*, 352 N.W.2d at 124-25 (stating that an employee's disagreement with an owner does not constitute a good reason to quit). Even though this incident offended Grosland's morals, the reasonable employee (even one who objects to Smyth's decision to pay the employee) would not have quit. While Grosland may have had a personal reason for quitting, a good personal reason does not necessarily equate to

good cause attributable to the employer. *See Kehoe v. Minn. Dep't of Econ. Sec.*, 568 N.W.2d 889, 891 (Minn. App. 1997).

Finally, Grosland argues that she had good reason to quit because the plant manager told her that she would have to work either fewer or a greater number of hours. While a change in schedule may be adverse to an employee, Grosland's schedule was never altered. A mere statement about a potential change in schedule is insufficient to compel a reasonable worker to become unemployed as opposed to remaining at Smyth.

In sum, Grosland has not shown that the incidents at her workplace, which she finds morally objectionable, would compel an average worker to quit the employment. Because the exception to benefits ineligibility for an applicant who quits for good cause does not apply in this case, the ULJ did not err in his decision denying benefits.

Affirmed.