STATE OF MINNESOTA
IN COURT OF APPEALS
A13-1454

Robin Berry,
Relator,

vs.

City of Minneapolis Public Housing,
Respondent,

Department of Employment and Economic Development,
Respondent.

Filed May 27, 2014
Affirmed
Schellhas, Judge

Department of Employment and Economic Development
File No. 31158967-3

Robin L. Berry, Hopkins, Minnesota (pro se relator)

Carol Ann Kubic, Minneapolis Public Housing Authority, Minneapolis, Minnesota (for respondent City of Minneapolis Public Housing)

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

Considered and decided by Schellhas, Presiding Judge; Halbrooks, Judge; and Harten, 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

SCHELLHAS, Judge

Relator Robin Berry challenges the determination of the unemployment-law judge (ULJ) that she is ineligible for unemployment benefits, arguing that (1) she quit her employment due to good reason caused by the employer and (2) she had a serious illness or injury that made quitting medically necessary. We affirm.

FACTS

In June 2007, Berry began working as an eligibility technician (ET) at the Minnesota Public Housing Authority (MPHA). An ET generally handled about 340 to 350 cases. In May 2010, MPHA promoted Berry to family self-sufficiency coordinator (FSSC). An FSSC generally handled about 170 to 180 cases, and each FSSC case required more time per year than an ET case. Management met every 12 to 18 months to redistribute cases if needed, and management sometimes needed to temporarily increase an employee's assigned cases. During a 2011 case redistribution, management determined that a particular group of cases required transfer to a different employee and Berry volunteered to take the cases. In February or March 2011, an ET quit and management temporarily distributed cases to Berry. Berry kept the ET cases until MPHA hired a replacement about a month later.

MPHA designated Wednesdays as "processing days," allowing staff to work on processing caseloads instead of having appointments. One Wednesday per month, MPHA required staff members, who made mistakes in their cases, to attend a training meeting that lasted one to two hours. Berry attended several such training meetings.

In March 2012, MPHA assigned Berry two additional groups of cases and Berry experienced personal issues with family members. If Berry fell behind on work, then she put in longer hours without compensation in order to catch up. She felt the effects of stress on her health. In April 2012, after a mobility coordinator quit, management temporarily distributed to Berry types of cases with which she had little experience. Berry visited a doctor, who placed no restrictions on her work schedule. Berry discussed her health problems with her supervisor, Ritz Ytzen. Ytzen granted Berry's sole requested accommodation—a later start time. Ytzen later denied Berry's request to lessen her workload because Ytzen thought both that the employee caseloads were balanced and that Berry was managing her caseload well. Berry kept the mobility cases until MPHA hired a replacement one or two months later.

In August 2012, management added Berry to a panel that reviewed applications rejected by MPHA. Berry participated in six hearings between August 2012 and January 2013, each requiring approximately one to two hours of her time. In January 2013, while Berry was performing an annual update to a report that was due at the end of the month, Ytzen asked her to help a coworker by processing six additional cases from a group of cases that was experiencing heavy volume. Berry expressed concern to Ytzen that she was feeling overwhelmed by the workload, and Ytzen advised her to do the best she could. Berry called in sick two days while she contemplated whether to quit her job. On January 18, 2013, she submitted her resignation, effective February 1, 2013. In her resignation letter, Berry stated that she was quitting "[d]ue to ongoing concerns regarding

[her] health." In her exit interview, she stated that she was quitting due to "[f]amily circumstances" and did not mention her health.

Berry applied for unemployment benefits, and the Minnesota Department of Employment and Economic Development (DEED) determined that she is ineligible. She appealed the determination, and a ULJ conducted an evidentiary hearing. Following the hearing, the ULJ issued a decision concluding that Berry is ineligible for unemployment benefits because she (1) quit her employment without good reason caused by the employer and (2) did not have a serious illness or injury that made it medically necessary for her to quit. The ULJ affirmed on reconsideration.

This certiorari appeal follows.

D E C I S I O N

This court reviews a ULJ's decision denying benefits to determine, among other things, 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). Appellate courts "review the ULJ's factual findings in the light most favorable to the decision." *Stagg v. Vintage Place Inc.*, 796 N.W.2d 312, 315 (Minn. 2011) (quotation omitted).

The purpose of chapter 268 is to assist those who are unemployed through no fault of their own, Minn. Stat. § 268.03, subd. 1 (2012), and an employee who quits employment is generally ineligible for unemployment benefits, Minn. Stat. § 268.095, subd. 1 (2012). But the chapter is remedial in nature and must be applied in favor of

awarding benefits; any provision precluding receipt of benefits must be narrowly construed. Minn. Stat. § 268.031, subd. 2 (2012).

Good reason caused by employer

Berry acknowledges that she quit her employment but maintains that she is nevertheless eligible for unemployment benefits because she quit for a good reason caused by MPHA. An employee who quits employment is eligible for benefits if the employee quit "because of a good reason caused by the employer." Minn. Stat. § 268.095, subd. 1(1). A good reason caused by the employer 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." *Id.*, subd. 3(a) (2012). These three requirements "must be applied to the specific facts of each case." *Id.*, subd. 3(b) (2012). "Whether an employee had good cause to quit is a question of law, which we review de novo." *Rowan v. Dream It, Inc.*, 812 N.W.2d 879, 883 (Minn. App. 2012) (quotation omitted).

Here, the ULJ found that "Berry was an extremely skilled coordinator and managed her cases well." When employees quit, the vacant caseload "was allocated fairly"; vacancies typically lasted one or two months; and the other coordinator handled as many cases as Berry. MPHA employees experienced this type of "ebb and flow" in caseload throughout Berry's employment. Family circumstances caused Berry's increased stress, and MPHA therefore "was not responsible for the adverse effects Berry was experiencing." The ULJ concluded that the exception did not apply.

Berry challenges the ULJ's finding that "MPHA was not responsible for the adverse effects Berry was experiencing," arguing that "many additional health stresses resulted as a direct consequence of the condition under which [she] was working." The record shows that MPHA attempted to equalize employees' caseloads. Occasionally, a "vacant caseload" resulted when an employee separated from his or her position; MPHA spread these cases among the remaining employees. A vacant caseload occurred in February or March 2011 and again in April 2012, both instances resulting in Berry gaining extra cases for about one or two months. Occasionally, processing movement of families within a voucher program required dispersing cases to other employees. This occurred in January 2013, resulting in Berry temporarily being assigned six cases to process. Ytzen testified at the evidentiary hearing that stress was inherent in the job and that the work-related stress Berry was experiencing in January 2013 was no more significant than in May 2010. Ytzen also testified, and Berry stated in her employment exit interview, that Berry's reason for resigning was stress due to family circumstances. Substantial evidence supports the ULJ's findings that Berry's new stress came from family problems and did not come from MPHA.

Berry argues that "no reasonable worker . . . could continue to work under the conditions that were imposed upon [her]" and focuses on the large number of cases assigned to her before her resignation. But, even if Berry's claimed number of cases is correct, (1) Berry was successfully performing her job duties as shown by her successor's easy transition after Berry quit and (2) temporary increases in assigned cases were part of the job. Berry's statement therefore reflects general frustration with her working

conditions, but "[t]he phrase 'good cause attributable to the employer' does not encompass situations where . . . the employee is simply frustrated or dissatisfied with [her] working conditions." *Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 14 (Minn. App. 1986).

We conclude that the ULJ did not err in concluding that Berry is not eligible for benefits by virtue of the exception of good reason caused by the employer.

Serious injury or illness

Berry argues that health issues "directly attributed" to her working conditions caused her to quit, and that she quit after MPHA failed to grant her requested accommodations. An employee who quits employment is eligible for benefits if the employee quit "because the applicant's serious illness or injury made it medically necessary that the applicant quit . . . if the applicant informs the employer of the medical problem and requests accommodation and no reasonable accommodation is made available." Minn. Stat. § 268.095, subd. 1(7) (2012).

Berry testified that her health issues briefly surfaced in 2011 and returned in 2012. Berry then visited a doctor, and the doctor placed no restrictions on her work schedule. Ytzen testified and Berry stated in her employment exit interview that Berry's reason for resigning was stress due to family circumstances. Substantial evidence supports the ULJ's finding that no evidence showed that quitting was medically necessary for Berry.

Berry argues that she sought and was denied three reasonable accommodations, thereby challenging the ULJ's finding that MPHA granted "the only" accommodation that Berry requested. But the hearing transcript reflects that Berry's three claimed

accommodation requests were actually complaints about workload rather than requests for reasonable accommodation. Ytzen denied Berry's requests to lessen her workload because Ytzen thought both that the employee caseloads were balanced and that Berry was managing her caseload well. Ytzen granted Berry's sole requested accommodation—to start work at a later time. Substantial evidence supports the ULJ's finding that MPHA granted the only accommodation that Berry requested.

The ULJ found that Berry complained to her doctor about stress, but the doctor placed no restrictions on her work schedule. Berry asked for only one accommodation—a later start time, which MPHA granted. No evidence shows that quitting was medically necessary for Berry. We conclude that the ULJ did not err in concluding that Berry is not eligible for benefits under the exception of medical necessity.

Affirmed.