

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2006).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-2084**

Kimberly M. Olsen,
Relator,

vs.

Deluxe Small Business Sales Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed October 7, 2008
Affirmed
Worke, Judge**

Department of Employment and Economic Development
File No. 12027 07

Kimberly M. Olsen, 2572 230th Court NW, St. Francis, MN 55070 (pro se relator)

Deluxe Small Business Sales, Inc., c/o TALX UCM Services, Inc., P.O. Box 283, St. Louis, MO 63166 (respondent employer)

Lee B. Nelson, Katrina I. Gulstad, Department of Employment and Economic Development, First National Bank Building, 332 Minnesota Street, Suite E200, St. Paul, MN 55101 (for respondent Department)

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

UNPUBLISHED OPINION

WORKE, Judge

Relator challenges the decision by the unemployment-law judge that she was disqualified from receiving unemployment benefits because she quit without good reason caused by the employer, arguing that (1) the ULJ finding that she did not request additional accommodations is erroneous, and (2) she was in a hostile working environment. We affirm.

DECISION

This court may affirm the decision of the unemployment-law judge (ULJ), remand the case 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:

- (1) in violation of constitutional provisions;
- (2) in excess of the statutory authority or jurisdiction of the department;
- (3) made upon unlawful procedure;
- (4) affected by other error of law;
- (5) unsupported by substantial evidence in view of the entire record as submitted; or
- (6) arbitrary or capricious.

Minn. Stat. § 268.105, subd. 7(d) (2006). Findings of fact are viewed in the light most favorable to the ULJ's decision, and deference is given to the ULJ's credibility determinations. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). Whether an individual quit employment and the reason the individual quit are questions of fact for the factfinder to determine. *Beyer v. Heavy Duty Air, Inc.*, 393 N.W.2d 380,

382 (Minn. App. 1986). Whether an employee had good reason to quit is a question of law this court reviews de novo. *Peppi v. Phyllis Wheatley Cmty. Ctr.*, 614 N.W.2d 750, 752 (Minn. App. 2000).

Relator Kimberly M. Olsen was employed as a customer-service associate for respondent Deluxe Small Business Sales, Inc. In September 2006, relator was approved to take intermittent leave under the Family and Medical Leave Act (FMLA) due to anxiety and depression. In March 2007, relator took a short-term leave of absence. Relator returned to work restricted hours in May 2007. Relator returned to work full-time on June 4, 2007; as of that date, relator's FMLA leave was exhausted for the year. On July 23, 2007, relator quit and informed Deluxe that she was planning to return to nursing school. Relator applied for unemployment benefits, and respondent Department of Employment and Economic Development (DEED) initially determined that she quit her employment without a good reason caused by the employer and was disqualified from receiving benefits. Relator appealed. Following a hearing, the ULJ found that relator did not quit based on the advice of a medical professional that her illness made it medically necessary that she quit, that she was granted the one reasonable accommodation she requested, and that she could have requested more accommodations if she needed them. The ULJ also found that there is no evidence to support a finding that relator quit because of a good reason caused by Deluxe; therefore, she was disqualified from receiving benefits. Relator requested reconsideration of the ULJ's decision, which was affirmed.

“An applicant who quit employment shall be disqualified from all unemployment benefits” unless a statutory exception applies. Minn. Stat. § 268.095, subd. 1 (2006). An exception to disqualification applies when “the applicant quit the employment because of a good reason caused by the employer.” *Id.*, subd. 1(1). “What constitutes good reason caused by the employer is defined exclusively by statute.” *Rootes v. Wal-Mart Assocs., Inc.*, 669 N.W.2d 416, 418 (Minn. App. 2003); Minn. Stat. § 268.095, subd. 3(g) (2006) (providing that statutory definition is exclusive and that no other definition shall apply).

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.

Minn. Stat. § 268.095, subd. 3(a) (2006). “[T]here must be some compulsion produced by extraneous and necessitous circumstances.” *Ferguson v. Dep’t of Employment Servs.*, 311 Minn. 34, 44 n.5, 247 N.W.2d 895, 900 n.5 (1976). The reasonable-worker standard is objective and is applied to the average person rather than the supersensitive. *Id.*

The evidence is insufficient to support relator’s argument that she quit her employment because of a good reason caused by the employer. Relator argues that the ULJ’s finding that she did not request any further accommodations is erroneous because she did request other accommodations, but her requests were denied. However, relator fails to state what she requested and she testified that she did not request further accommodations. Relator also argues that she was “constantly threatened that she would

be put on warning” and that she could be “walked out at any time,” which constituted a hostile work environment. But a good reason to quit caused by the employer “does not encompass situations where an employee experiences irreconcilable differences with others at work or 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). Additionally, while an adverse working condition may constitute a good reason caused by the employer, an employee “must complain to the employer and give the employer a reasonable opportunity to correct the adverse working conditions before that may be considered a good reason caused by the employer for quitting.” Minn. Stat. § 268.095, subd. 3(c) (2006). The record supports the ULJ’s finding that relator did not officially complain about her concerns regarding her supervisor’s behavior, and, therefore, Deluxe was not provided with an opportunity to address any concerns relator may have had. Finally, relator also acknowledges that she informed Deluxe that she was quitting because she planned to return to nursing school and that she did not claim that her anxiety and depression were reasons for quitting. There is no evidence in the record that relator was advised that it was medically necessary for her to quit. Because there was no legally sufficient reason constituting a good reason caused by the employer to quit, the ULJ did not err in determining that relator was disqualified from receiving benefits.

Affirmed.

