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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-0014**

Theola Pendley,
Relator,

vs.

Adrian Care Center, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed August 28, 2017
Affirmed
Smith, John, Judge ***

Department of Employment and Economic Development
File No. 34935439-3

Theola Pendley, Ellsworth, Minnesota (pro se relator)

Adrian Care Center, Adrian, Minnesota (respondent employer)

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

Considered and decided by Smith, Tracy M., Presiding Judge; Connolly, Judge; and
Smith, John, Judge.

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

UNPUBLISHED OPINION

SMITH, JOHN, Judge

We affirm the determination of an unemployment-law judge (ULJ) that relator is ineligible for unemployment benefits because the record supports the ULJ's factual findings and the findings support the conclusion that relator did not have a good reason caused by his employer for quitting.

FACTS

Relator Theola Pendley was employed full time as a maintenance worker for respondent Adrian Care Center, Inc. (ACC) from September 1, 2012, until his resignation on September 2, 2016. Pendley's August 24, 2016 letter of resignation states:

To whom it may concern, I Ray Pendley am turning in my notice that I am quitting, Sept. 2nd 2016 will be my last day. The job I was hired for has grown into more than I can do, I don't mind helping out where and when I can but I have been assigned more than I can handle.

Pendley's job description required him to "perform[] general maintenance duties and maintain[] neatness and function of the facility building, equipment and grounds." His job description included numerous specific duties in areas labeled public relations, residents, operations, budget, building, and employees. The job description stated that "[m]anagement reserves the right to change job responsibilities, duties and hours as needs prevail."

ACC added to Pendley's specific job duties during his employment. In March 2015, ACC directed him to drive residents on errands, and in May 2016, it directed him to clean kitchen appliances and mop the kitchen, as well as clean restrooms. ACC required all of

its employees to become certified as home health aides (HHA); Pendley finished this certification in November 2015. The ULJ found that in late August 2016, Pendley “became tired of doing his core duties and the additional duties.” Pendley did not go to ACC with his concerns and instead drafted his letter of resignation and quit his employment.

Pendley applied for unemployment benefits, but was determined ineligible because he quit his employment. Pendley appealed this decision, and the case was heard before the ULJ, who heard testimony from Pendley, ACC project manager Jane Pantzke, and ACC manager Kela Kerns, who was Pendley’s immediate supervisor. During the hearing, Pendley testified that he quit because ACC asked him “to do things that really [weren’t] in my job description.” But Pendley did not testify that he brought any concerns about being overworked to his employer; rather, he testified that he never went to anyone at ACC to express his concerns about being overworked. Kerns testified that when Pendley informed her he was quitting, he said, “[W]hen I’m done I’m done,” which she interpreted to mean that she could not change his mind about his decision to quit. Kerns also disputed that ACC had added to Pendley’s core responsibilities and testified that the added tasks were within his job description.

The ULJ affirmed the ineligibility decision, ruling that Pendley did not have a good reason caused by the employer for quitting because he did not inform ACC about his job concerns to give ACC the opportunity to correct them. In an additional submission to his request for reconsideration of the ULJ’s decision, Pendley alleged facts showing that he had expressed his concerns to Pantzke and his immediate manager, Kerns. The ULJ affirmed its decision upon reconsideration, stating that Pendley “did not go to the employer

with any of his concerns and give the employer a reasonable opportunity to correct things.” The ULJ noted that Pendley testified “at the hearing that he did not go to the employer with any . . . concerns before quitting.”

D E C I S I O N

This court may affirm, reverse, modify, or remand a ULJ’s decision if the “substantial rights of the petitioner may have been prejudiced because the findings, inferences, conclusion, or decision are . . . affected by . . . error of law; [or] unsupported by substantial evidence in view of the entire record as submitted.” Minn. Stat. § 268.105, subd. 7(d) (2016). This court views the ULJ’s factual findings in the light most favorable to the decision and defers to the ULJ’s credibility determinations. *Bangston v. Allina Med. Grp.*, 766 N.W.2d 328, 332 (Minn. App. 2009). Factual findings will not be disturbed “when the evidence substantially sustains them.” *Id.* (quotation omitted). Questions of law are reviewed de novo. *Id.*

An employee who quits his employment is ineligible for unemployment benefits unless one of several exceptions applies. Minn. Stat. § 268.095, subd. 1 (2016). An employee quits his employment “when the decision to end the employment was, at the time the employment ended, the employee’s.” *Id.*, subd. 2(a) (2016). But an employee who quits is eligible for benefits if he quit “because of a good reason caused by the employer.” *Id.*, subd. 1(1).

A good reason to quit caused by the employer is defined as one that “is directly related to the employment and for which the employer is responsible,” “is adverse to the worker,” and “would compel the average, reasonable worker to quit and become

unemployed rather than remaining in the employment.” *Id.*, subd. 3(a) (2016). But if an employee is subjected to adverse working conditions, he must first complain to the employer and give the employer a chance to correct the conditions before quitting. *Id.*, subd. 3(c) (2016). Whether an employee had good reason caused by the employer to quit is a question of law that we review de novo. *Peppi v. Phyllis Wheatley Cmty. Ctr.*, 614 N.W.2d 750, 752 (Minn. App. 2000).

Pendley argues that he was given different and additional responsibilities that made him feel overwhelmed. Kerns testified that the job duties Pendley viewed as additional were within the broad definition of his responsibilities. A change in job duties alone is not sufficient to demonstrate a good reason to quit caused by the employer when the additional duties or different nature of the job are not of lesser importance or lower skill level. *Williams v. Right Step Academy (Corp)*, 607 N.W.2d 482, 485 (Minn. App. 2000). Pendley did not allege that he received lower pay or fewer hours, or that the change in duties was a demotion. *See id.* (acknowledging that lower pay or a demotion to a position requiring fewer skills could be a good reason to quit). Pendley also did not allege that he was asked to work longer hours for the same amount of pay. *Cf. Rowan v. Dream It, Inc.*, 812 N.W.2d 879, 883-89 (Minn. App. 2012) (stating that loss of guaranteed number of hours and resulting lower pay and benefits provided a good reason caused by the employer to quit).

Pendley testified at the hearing that he had not approached either Kerns or Pantzke to complain about the duties he viewed as outside his job description. In his request for reconsideration, Pendley stated that he had approached them to complain. The ULJ rejected this argument, noting that Pendley had testified that he had not approached his

employer to complain about job duties before quitting, and had not explained that he did not want to be certified as an HHA. Pendley's hearing testimony was unequivocal: he agreed that before he wrote his quit notice and talked to Kerns, he never had talked to anyone in authority about his concerns. He also agreed that, when his duties first changed after being certified as an HHA, he did not express concerns to Kerns. On reconsideration, the ULJ found that Pendley had been certified as an HHA nine months before he quit and that he had not expressed any concerns to the employer about the certification. The ULJ rejected Pendley's claims on his request for reconsideration that he had approached ACC with his concerns, because Pendley had unequivocally testified under oath at the hearing that he had not. *See Bangston*, 766 N.W.2d at 332 (stating that reviewing court views the factual findings in the light most favorable to the decision).

The ULJ did not err in determining that Pendley quit his employment without a good reason caused by the employer.

Affirmed.