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

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A17-0566**

Ann Christos,  
Relator,

vs.

About U, Inc.,  
Respondent,

Department of Employment and Economic Development,  
Respondent.

**Filed December 4, 2017  
Affirmed  
Halbrooks, Judge**

Department of Employment and Economic Development  
File No. 35156160-3

Ann Christos, Inver Grove Heights, Minnesota (pro se relator)

About U, Inc., Richfield, Minnesota (respondent employer)

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

Considered and decided by Smith, Tracy M., Presiding Judge; Peterson, Judge; and  
Halbrooks, Judge.

**UNPUBLISHED OPINION**

**HALBROOKS**, Judge

In this certiorari appeal, pro se relator challenges the decision of an unemployment-  
law judge (ULJ) that she is ineligible for unemployment benefits, arguing that the ULJ

erred by concluding that she quit, rather than transferred to the Twin Cities and that she does not qualify for benefits under a statutory exception to quitting. We affirm.

## **FACTS**

In April 2016, relator Ann Christos began working as a personal-care attendant for respondent About U, Inc. in Moorhead. Wendy Gunderson supervised Christos, and Becky Lefebvre managed About U's office.

In September 2016, Christos notified Gunderson and Lefebvre that she planned to move to the Twin Cities at the end of October so that she could be closer to her family and attend college classes. Christos stated that her last day of work would be October 21, 2016. Christos asked whether About U had a client available in the Twin Cities. Lefebvre advised Christos that About U did not, at that time, have an assignment available in the Twin Cities and could not guarantee Christos an assignment there if she moved. Gunderson reaffirmed the same information to Christos. On October 21, 2016, Christos stopped working for About U's Moorhead client and moved to the Twin Cities shortly thereafter.

Approximately one week later, About U offered Christos a new assignment working at an About U's client's home in Inver Grove Heights. Christos started working for that client on November 2, 2016, but only worked there for part of one shift because she discovered that the home was infested with cockroaches. Christos immediately notified About U of the employment conditions and did not resume working for About U's Inver Grove Heights client.

Christos applied for unemployment benefits, and respondent Minnesota Department of Employment and Economic Development (DEED) determined that she is ineligible to

receive unemployment benefits. Christos appealed. The ULJ held a two-day evidentiary hearing at which Christos, About U president James Sipulski, Gunderson, and Lefebvre testified. The ULJ found that Christos ended employment with About U on October 21, 2016, for personal reasons—moving to the Twin Cities to be closer with family and attend college classes.

Christos requested reconsideration on the grounds that the ULJ did not consider whether she quit employment with About U’s Inver Grove Heights client within 30 calendar days of beginning that employment and whether that employment was unsuitable. The ULJ affirmed its decision, concluding that Christos is not eligible for benefits for quitting employment in Inver Grove Heights on November 2, 2016, because she was still ineligible for benefits as a result of her quit on October 21, 2016, and had not yet earned \$1,400 in subsequent covered employment as required by statute. This certiorari appeal follows.

## **D E C I S I O N**

Upon review of an unemployment-benefits decision, we may affirm or remand for further proceedings, or we may reverse the ULJ’s decision if its “findings, inferences, conclusion, or decision are: . . . made upon unlawful procedure . . . [or] unsupported by substantial evidence in view of the entire record as submitted.” Minn. Stat. § 268.105, subd. 7(d) (Supp. 2017).

### **I.**

Christos argues that the ULJ erred by determining that she quit employment for personal reasons. She maintains that About U offered her the Inver Grove Heights

assignment before she decided to move to the Twin Cities, and, consequently, her relocation to the Twin Cities constituted a transfer of her employment.

Whether an employee quit is a question of fact. *Goodwin v. BPS Guard Servs., Inc.*, 524 N.W.2d 28, 29 (Minn. App. 1994). We review “the ULJ’s factual findings in the light most favorable to the decision and [will] not disturb those findings as long as there is evidence in the record that reasonably tends to sustain them.” *Stagg v. Vintage Place Inc.*, 796 N.W.2d 312, 315 (Minn. 2011) (quotation omitted). A “quit” occurs when “the decision to end the employment was, at the time the employment ended, the employee’s.” Minn. Stat. § 268.095, subd. 2(a) (2016).

It is undisputed that Christos could have continued working with About U’s Moorhead client had she not moved. The question is whether the move was a transfer, as Christos characterizes it, or a cessation of employment. Three About U witnesses testified that Christos was not offered a new assignment until more than a week after she ended her Moorhead assignment. The ULJ found Christos’s testimony to be not credible.

We defer to the ULJ’s credibility determinations, *McNeilly v. Dep’t of Emp’t & Econ. Dev.*, 778 N.W.2d 707, 710 (Minn. App. 2010), and will affirm if “[t]he ULJ’s findings are supported by substantial evidence and provide the statutorily required reason for [the ULJ’s] credibility determination.” *Ywswf v. Teleplan Wireless Servs., Inc.*, 726 N.W.2d 525, 533 (Minn. App. 2007); *see also* Minn. Stat. § 268.105, subd. 1a(a) (2016) (providing that where “credibility of a witness testifying in a hearing has a significant effect on the outcome of a decision, the unemployment law judge must set out the reason for crediting or discrediting that testimony”).

In not crediting Christos’s testimony, the ULJ reasoned that “Christos was at times unsure of dates she was employed with About U.” In crediting the About U’s employees’ testimony, the ULJ stated that About U “presented three witnesses [who] each testified that Christos did not have any assignment offered to her until more than a week after she ended the October 21, 2016 assignment” and “further testified that prior to October 21, 2016[,] she was advised there was no guarantee of additional assignments after she moved.” Because the ULJ’s credibility findings are supported by substantial evidence, we conclude that the ULJ did not err.

Viewing the ULJ’s factual findings in the light most favorable to its decision, we conclude that the record supports the finding that Christos quit for personal reasons on October 21, 2016.

## II.

We next turn to whether the ULJ erred by determining that Christos does not qualify for benefits under a statutory exception to quitting. An employee who quits employment is ineligible for all unemployment benefits unless an exception applies. Minn. Stat. § 268.095, subd. 1 (2016). One exception applies if an employee quit “within 30 calendar days of beginning the employment and the employment was unsuitable.” *Id.*, subd. 1(3). Another exception occurs if an employee quit employment “because of a good reason caused by the employer.” *Id.*, subd. 1(1).

In a letter supporting her request for reconsideration, Christos argued that the ULJ did not consider if she quit within 30 days of unsuitable employment under Minn. Stat. § 268.095, subd. 1(3), based on the fact that the Inver Grove Heights home was infested

with cockroaches. In its order affirming Christos's ineligibility, the ULJ agreed with Christos, determining that the exception applied to her November 2 quit, but disagreed that Christos is eligible for benefits based on that exception. The ULJ explained that, regardless of the November 2 quit, Christos remains ineligible for benefits based on the October 21 quit.

As the ULJ noted, the statute provides that upon being determined ineligible, an applicant remains ineligible until the end of the calendar week in which the applicant is paid one-half the statutorily required total wage amount for actual work performed in subsequent covered employment. *Id.*, subd. 10 (2016). Because Christos is ineligible for benefits based on the October 21 quit, she remains ineligible until she earns one-half the statutorily required wages, which DEED determined to be \$1,400. At the time that Christos quit employment with About U's Inver Grove Heights client on November 2, Christos had not yet earned \$1,400.

Because the ULJ did not err in determining that Christos quit on October 21 for personal reasons and because Christos had not earned \$1,400 in subsequent covered employment by November 2, the ULJ did not err by finding that Christos remains ineligible for benefits.

**Affirmed.**