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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0081**

Carl Jackson,
Relator,

vs.

Crown Warehouse & Delivery Service, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed October 22, 2018
Affirmed
Larkin, Judge**

Department of Employment and Economic Development
File No. 35819281-3

Carl G. Jackson, Monticello, Minnesota (pro se relator)

Crown Warehouse & Delivery Service, Inc., Plymouth, Minnesota (respondent employer)

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

Considered and decided by Larkin, Presiding Judge; Cleary, Chief Judge; and
Schellhas, Judge.

UNPUBLISHED OPINION

LARKIN, Judge

In this unemployment-benefits appeal, relator-employee challenges a decision by an unemployment-law judge (ULJ) that he is ineligible for unemployment benefits because he quit his employment. We affirm.

FACTS

Relator Carl Jackson was employed as a full-time loader for respondent Crown Warehouse & Delivery Service Incorporated (Crown), from April 12, 2016, through July 10, 2017. On August 7, 2017, Jackson applied for unemployment benefits, claiming that his employment had been terminated. Respondent Minnesota Department of Employment and Economic Development (DEED) determined that Jackson was ineligible for benefits because he quit his employment.

Jackson appealed DEED's ineligibility determination, and a ULJ conducted an evidentiary hearing. One of Crown's owners, Sheryl Ness, and a Crown employee, Kasey Racette, testified on behalf of Crown. Jackson testified, but he did not call any other witnesses. Jackson initially expressed interest in having his wife testify on his behalf. However, when it was time for her to testify at the hearing, Jackson told the ULJ that "[t]here's no need."

The ULJ found:

On June 26, 2017, a client complained to Sheryl Ness, owner, that Jackson had requested cash from the client for some of his services. On June 29, 2017, Jackson was absent from work and he did not notify management of his absence. He was sick that day and he did not have an inhaler. Jackson was on vacation from June 30, 2017, through July 9, 2017.

He returned to work on July 10, 2017. On July 10, 2017, Ness [approached Jackson regarding] the complaint about Jackson asking for cash. Ness then asked Jackson about his absence on June 29, 2017. Jackson stated that he was in the hospital at midnight on June 29, 2017, and his phone did not work. Ness told Jackson to bring in the doctor's note. She did not tell Jackson that he could not come to work if he did not have a doctor's note. Jackson did not tell Ness that he did not have a doctor's note for June 29, 2017.

Jackson did not return to work after July 10, 2017.

During the evidentiary hearing, Ness testified that Jackson told Racette and her "that he had gone to the hospital and he was in the hospital at midnight. He had to get the new nebulizer and that's why he didn't come in." Ness testified that she asked Jackson, "Do you have a doctor's note?" and told him to "just bring that in and it'll be no problem." Jackson testified that Ness said he "needed a doctor's note" and told him not to come back to work until he had one. Ness testified that she "never said that." Racette testified that Ness said, "If you could bring a copy of [hospital paperwork] when you come in tomorrow, then that would be fine." Jackson testified that he did not tell Ness that he did not have a doctor's note and that he did not make an effort to get a doctor's note because he "didn't go to the doctor."

Ness testified that Jackson called her on July 13 "to tell [her] to bring him a check" and meet him at a Kwik Trip convenience store. Ness testified that, when she arrived at the Kwik Trip, she called Jackson and he said he "left the key [to Crown's place of business] in an envelope with the cashier."

The ULJ based his findings of fact on Ness's testimony, which he found more credible than Jackson's. The ULJ determined that "Jackson quit employment, and is

ineligible for the payment of unemployment benefits.” Jackson requested reconsideration, and the decision was affirmed. This certiorari appeal follows.

D E C I S I O N

Jackson challenges the ULJ’s eligibility determination, arguing that he was discharged from Crown and that the ULJ erred by determining that he quit. Review of a ULJ’s eligibility determination is governed by Minn. Stat. § 268.105, subd. 7(d) (Supp. 2017), which provides:

The Minnesota Court of Appeals may affirm the decision of the unemployment law judge or remand the case for further proceedings; or it may 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.

“Whether an employee has been discharged or voluntarily quit is a question of fact.” *Nichols v. Reliant Eng’g & Mfg., Inc.*, 720 N.W.2d 590, 594 (Minn. App. 2006) (quotation omitted). This court views the ULJ’s factual findings in the light most favorable to the decision, defers to the ULJ’s credibility determinations, and will not disturb the factual findings when the evidence substantially sustains them. *Wiley v. Robert Half Int’l, Inc.*, 834 N.W.2d 567, 569 (Minn. App. 2013). Substantial evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Minneapolis Van*

& Warehouse Co. v. St. Paul Terminal Warehouse Co., 180 N.W.2d 175, 178 (Minn. 1970) (quotation omitted).

Generally, an applicant who quits employment is ineligible for unemployment compensation unless a statutory exception applies. Minn. Stat. § 268.095, subd. 1 (Supp. 2017). “A quit from employment 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) (Supp. 2017). “A discharge from employment occurs when any words or actions by an employer would lead a reasonable employee to believe that the employer will no longer allow the employee to work for the employer in any capacity.” Minn. Stat. § 268.095, subd. 5(a) (Supp. 2017).

The ULJ’s finding that Jackson quit is supported by the testimony of Ness and Racette. They testified that Ness requested medical documentation regarding Jackson’s absence on June 29, but that Ness did not tell Jackson that provision of the documentation was a condition of continued employment. Thus, Ness’s request for documentation would not have led a reasonable employee to believe that Crown would no longer allow Jackson to work for Crown in any capacity. Ness did not otherwise communicate an intent to end Jackson’s employment. Instead, Jackson’s failure to return to work after his meeting with Ness establishes that he decided to end his employment with Crown.

Jackson argues that Ness and Racette “lied under oath” and that the transcript reveals that Ness’s “story changes.” The ULJ credited Ness’s testimony over Jackson’s explaining, “[Sheryl Ness’s] testimony was more credible than the testimony of Carl Jackson. She has less of a vested interest in this matter than Jackson and her testimony

was corroborated by the testimony of Kasey Racette.” See Minn. Stat. § 268.105, subd. 1a(a) (2016) (requiring a ULJ to set forth the reasons for crediting or discrediting testimony “[w]hen the credibility of a witness testifying in a hearing has a significant effect on the outcome of a decision”).

“Credibility determinations are the exclusive province of the ULJ and will not be disturbed on appeal.” *Bangtson v. Allina Med. Grp.*, 766 N.W.2d 328, 332 (Minn. App. 2009) (quotation omitted). We defer to the ULJ’s determination that Ness’s testimony was more credible than Jackson’s. See *Nichols*, 720 N.W.2d at 594 (“When witness credibility and conflicting evidence are at issue, we defer to the decision-maker’s ability to weigh the evidence and make those determinations.”).

Jackson also argues that Crown terminated his employment before he started his vacation on June 30, noting that when he returned from vacation on July 10, his routes did not have his name on them and a new employee had been assigned to do the work he usually did. However, Jackson worked his shift at Crown on July 10 and was not approached by Ness until the end of his shift, indicating that Jackson was still employed on July 10.

Because the ULJ’s determination that Jackson quit his employment is supported by substantial evidence, and Jackson does not assert the application of a statutory exception that would allow him to receive benefits even though he quit, we affirm the ULJ’s determination that Jackson is ineligible for unemployment benefits.

Affirmed.