STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1414

Ronald T. Seaworth,
Relator,

vs.

ABRA Auto Body & Glass,
Respondent,

Department of Employment and Economic Development,
Respondent.

Filed June 21, 2021
Affirmed
Reilly, Judge

Department of Employment and Economic Development
File No. 39066068-3

Ronald T. Seaworth, Ramsey, Minnesota (pro se relator)

Jennifer Moreau, Barna, Guzy & Steffen LTD, Minneapolis, Minnesota (for respondent ABRA Auto Body & Glass)

Keri A. Phillips, Anne B. Froelich, Minnesota Department of Employment and Economic Development, St. Paul, Minnesota (for respondent Minnesota Department of Employment and Economic Development)

Considered and decided by Smith, Tracy M., Presiding Judge; Reilly, Judge; and Florey, Judge.

NONPRECEDENTIAL OPINION

REILLY, Judge

Relator challenges the decision of an unemployment-law judge that he is ineligible for unemployment benefits because he quit his employment without a good reason caused by his employer. We affirm.

FACTS

Relator Ronald T. Seaworth worked as a full-time auto-body technician for respondent ABRA Auto Body & Glass (ABRA) from December 2019 to March 2020. ABRA paid Seaworth on a commission basis using "flag hours." A flag hour is "the amount [of] book time that is written out by [the] industry" and differs from the actual number of hours an employee spends working on a job. ABRA assigns a set number of flag hours for each job and only bills the customer for those flag hours. ABRA only pays the technician for the flag hours assigned to the job. If a technician fails to complete a job properly, the technician must repair the job without additional pay and ABRA will not bill the customer for the additional repair work. Seaworth was aware of ABRA's use of flag hours when he was hired. Seaworth was also aware of ABRA's policy to correct repairs without additional pay.

In February 2020, a customer brought in a truck with rust damage on a panel. Seaworth believed the panel needed to be replaced, but ABRA's estimator instructed him to repair the panel rather than replace it. Seaworth complied with this instruction and did not discuss his concerns with his direct supervisor about replacing the rusted panel. ABRA billed the customer 7.1 flag hours for this repair. About a month later, the customer

returned to ABRA because he was unhappy with the original repairs performed on the truck. ABRA agreed to replace the panel and subtract the amount the customer had already paid for the repair. Seaworth's supervisor gave him a work order for the replacement job. Normally, ABRA would have allotted 20.1 flag hours for a replacement job. But the work order showed that Seaworth would be paid only for 13 flag hours to account for the amount the customer had paid for the earlier repair work.

Seaworth refused to complete the replacement job because he believed it constituted wage theft. The next day, Seaworth told his supervisor that he was resigning because he did not feel that he was being paid the appropriate amount to fix the truck. His supervisor offered to discuss the issue with Seaworth, but Seaworth refused to discuss the matter. Seaworth stated that he would complete work on the remaining vehicles he was fixing, which he estimated could be completed in one or two days. Seaworth returned to his work space and began speaking to other technicians about his belief that the company was committing wage theft. One technician complained to the supervisor that Seaworth was being distracting. The supervisor told Seaworth to leave that day because he was "disturbing the production process."

Seaworth applied for unemployment benefits with respondent Department of Employment and Economic Development (DEED). DEED determined that Seaworth was eligible for unemployment benefits. ABRA appealed the eligibility determination, and the unemployment-law judge (the ULJ) conducted a de novo evidentiary hearing in August 2020. The ULJ determined that Seaworth quit his employment when he gave notice to his employer that he was going to quit after he completed his remaining two repair jobs. The

ULJ noted that, later that day, Seaworth's employer decided that Seaworth's employment should end immediately, rather than after he completed his final two jobs. The ULJ determined that Seaworth was not discharged for employment misconduct. The ULJ explained: "Seaworth was discharged on March 31, but the separation [became] a quit on April 1 because the discharge occurred within 30 days of the intended date of quitting." The ULJ ultimately determined that Seaworth did not quit for a good reason caused by the employer and was therefore ineligible for unemployment benefits. Seaworth filed a request for reconsideration, which the ULJ denied. This appeal follows.

DECISION

Seaworth challenges the ULJ's decision that he quit employment without a good reason caused by his employer. On review, we may affirm the decision of the ULJ, remand the case for further proceedings, or reverse and modify the decision if the substantial rights of the relator have been prejudiced because, among other things, the decision is affected by an error in law or is unsupported by substantial evidence. *See* Minn. Stat. § 268.105, subd. 7(d) (2020). We view the ULJ's factual findings in the light most favorable to the decision, deferring to the ULJ's credibility determinations. *Wiley v. Robert Half Int'l, Inc*., 834 N.W.2d 567, 569 (Minn. App. 2013). But whether a statutory exception to ineligibility applies is a question of law that this court reviews de novo. *Johnson v. Walch & Walch, Inc*., 696 N.W.2d 799, 800 (Minn. App. 2005), *review denied* (Minn. July 19, 2005).

Generally, an employee who quits employment is ineligible for unemployment benefits unless a statutory exception applies. Minn. Stat. § 268.095, subd. 1 (2020). One exception allows a person who quits "because of a good reason caused by the employer"

to receive unemployment benefits. *Id*., subd. 1(1). 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." *Id*., subd. 3(a)(1)-(3) (2020). "While an employee may have a good personal reason for quitting, it does not necessarily constitute a good reason caused by the employer for quitting." *Werner v. Med. Prof'ls, LLC*, 782 N.W.2d 840, 842 (Minn. App. 2010), *review denied* (Minn. Aug. 10, 2010). And although the good-reason analysis should be performed in light of the unique factual context of each case, those facts must demonstrate an employer-caused reason that would compel "an average, reasonable worker to quit." Minn. Stat. § 268.095, subd. 3(a)(3); *Werner*, 782 N.W.2d at 843. Thus, simple frustration or dissatisfaction with working conditions is not a good reason for quitting caused by the employer. *Trego v. Hennepin Cty. Family Day Care Ass'n*, 409 N.W.2d 23, 26 (Minn. App. 1987). We review de novo whether an employee had a good reason to quit. *Peppi v. Phyllis Wheatley Cmty. Ctr.*, 614 N.W.2d 750, 752 (Minn. App. 2000).

Here, the ULJ determined that a preponderance of the evidence demonstrated that Seaworth did not quit because of a good reason caused by his employer. Seaworth argues that this determination is erroneous because an average, reasonable worker would quit if an employer was committing wage theft. We discern no error in the ULJ's determination. The record shows that Seaworth was aware of ABRA's use of flag hours, which is considered an industry standard. Seaworth also knew about ABRA's policy to correct repairs without additional pay and acknowledged that "[e]very time I've had an issue on

the job, missing a dent, or having to redo something, it has always been done. Okay. I've always had no problem with that." But Seaworth did not want to complete the replacement job on the truck because he had followed the estimator's instruction on the initial repair work and believed ABRA was committing wage theft.

If an employee claims to have quit due to adverse working conditions, he "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) (2020). Seaworth did not discuss his concerns with his employer before he resigned. After Seaworth resigned, his supervisor offered to discuss the billing issue with him. Seaworth refused. At the hearing, the supervisor testified that if Seaworth "would have c[o]me and just discussed [the issue] with me, we could have worked something out and I wouldn't have even done, you know, taken off the [disputed] hours. But I didn't even get the opportunity to discuss that with him." The record supports the ULJ's determination that Seaworth did not speak to his employer about his concerns and did not give ABRA a reasonable opportunity to correct the situation before he resigned.

Because Seaworth did not give ABRA an opportunity to correct the adverse working conditions, the good-reason exception does not apply. The ULJ correctly determined that Seaworth is ineligible for unemployment benefits because he quit his employment and no exception applies.

Affirmed.