STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0315

Jacob Holly,
Relator,

vs.

Cedarock Builders LLC,
Respondent,

Department of Employment and Economic Development,
Respondent.

Filed November 22, 2021
Affirmed
Klaphake, Judge[*]

Department of Employment and Economic Development
File No. 38755846-4

Jacob Holly, Dassel, Minnesota (pro se appellant)

Cedarock Builders LLC, Rockford, Minnesota (respondent employer)

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

Considered and decided by Gaïtas, Presiding Judge; Reilly, Judge; and Klaphake, Judge.

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

NONPRECEDENTIAL OPINION

KLAPHAKE, Judge

Relator Jacob Holly applied for unemployment benefits after he quit working for respondent Cedarock Builders LLC. An unemployment-law judge (ULJ) ruled that Holly was eligible for unemployment benefits. Cedarock requested that the ULJ reconsider that decision and, after a second hearing, the ULJ reversed their decision and denied Holly's claim for unemployment benefits. Holly petitioned for a writ of certiorari and asks this court to reverse the ULJ's decision that he is ineligible as well as the denial of his request for reconsideration. We reject Holly's arguments and affirm the ULJ's decision.

DECISION

Holly challenges the ULJ's decision on two grounds. First, he argues that the ULJ incorrectly concluded that he did not quit for a good reason caused by the employer; and second, he argues that the ULJ should have granted his request for reconsideration and considered the new evidence Holly submitted along with it.

We first address whether the ULJ erred by determining that Holly was ineligible for unemployment benefits. The ULJ determined Holly was ineligible because he did not quit for a good reason caused by Cedarock. Holly asks this court to reverse that decision.

A worker who quits his job is not entitled to unemployment benefits unless he shows, among other exceptions, that he quit because of a good reason caused by his employer. Minn. Stat. § 268.095, subd. 1(1) (2020). A good reason is: (1) "directly related to the employment and for which the employer is responsible"; (2) "adverse to the worker";

and (3) "would compel an average, reasonable worker to quit and become unemployed rather than remaining in the employment." Minn. Stat. § 268.095, subd. 3(a) (2020).

The ULJ found that Holly, not Cedarock, was responsible for causing his reason for quitting and that an average, reasonable worker would not have quit under similar circumstances. We view the ULJ's factual findings in the light most favorable to the decision. *Stagg v. Vintage Place, Inc.*, 796 N.W.2d 312, 315 (Minn. 2011). We do not second-guess a ULJ's findings if they are supported by the evidence and we defer to a ULJ's credibility determination. *Wiley v. Robert Half Int'l, Inc.*, 834 N.W.2d 567, 569 (Minn. App. 2013). But whether a worker had a good reason to quit is a question of law that we review de novo. *Rowan v. Dream It, Inc.*, 812 N.W.2d 879, 883 (Minn. App. 2012).

We conclude that an average, reasonable worker would not have quit and become unemployed under similar circumstances. Holly argued that, "Every worker has the right to know what they are getting paid, when, and how." He testified that he "got frustrated. . . . I just needed to know how much money I'm making, and when do you plan to pay me. Now, if I can't get any of those answers, I can't rely on these people."

A worker's frustration or dissatisfaction with his working conditions is not enough to compel an average, reasonable employee to choose unemployment. *Trego v. Hennepin Cnty. Fam. Day Care Ass'n*, 409 N.W.2d 23, 26 (Minn. App. 1987). A short delay in getting paid does not rise to the level that would cause a reasonable, average worker to quit and choose unemployment. *Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 13-14 (Minn. App. 1986). Holly worked at Cedarock from August 22 to September 7—a total of sixteen days.

Sixteen days after his first day of work is not enough of a delay to compel an average, reasonable worker to choose unemployment over continued employment.

Because an average, reasonable worker would not have quit under the same circumstances, the ULJ did not err by determining Holly is ineligible for benefits and we do not address whether Cedarock is responsible for causing Holly to quit.

Holly also challenges the ULJ's decision to deny his request to reconsider. After the ULJ issued their decision denying Holly's claim, Holly requested the ULJ reconsider and pointed to new emails and invoices not offered at the hearing. We review decisions to deny reconsideration for an abuse of discretion. *Eley v. Southshore Invs., Inc.*, 845 N.W.2d 216, 218 (Minn. App. 2014).

Any party to an unemployment-benefits case can ask a ULJ to reconsider their decision. Minn. Stat. § 268.105, subd. 2(a) (2020). In ruling on that request, a ULJ may not consider evidence that was not offered at the hearing, except to decide whether to grant a new hearing. *Id.*, subd. 2(c) (2020). The ULJ must grant a new hearing if the moving party (1) shows new evidence that would likely change the outcome and the moving party had good cause for not submitting said evidence at the hearing; or (2) shows that the evidence submitted at the hearing was likely false and the false evidence changed the outcome. *Id.* "Good cause . . . is a reason that would have prevented a reasonable person acting with due diligence from submitting the evidence." *Id.*

The ULJ denied Holly's request because Holly did not show good cause why he failed to offer the new evidence at the hearing. *See* Minn. Stat. § 268.105, subd. 2(c). The ULJ also reasoned that the new evidence related to Holly's claim that he was not

responsible for causing his paycheck to be delayed. That evidence did not tend to show that an average, reasonable person would have quit and become unemployed rather than remain employed and so it would not likely change the outcome.

We agree with the ULJ that Holly did not show good cause for offering the new evidence for the first time in a request to reconsider and that the evidence is not likely to have changed the outcome. We affirm.

Affirmed.