

*This opinion is nonprecedential except as provided by  
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A21-1110**

Justin McDuff,  
Relator,

vs.

Half Moon Clippers, LLC - Great Clips,  
Respondent,

Department of Employment and Economic Development,  
Respondent.

**Filed May 16, 2022  
Affirmed  
Smith, Tracy M., Judge**

Department of Employment and Economic Development  
File No. 45891807-3

Justin McDuff, Minneapolis, Minnesota (pro se relator)

Half Moon Clippers, LLC – Great Clips, Coon Rapids, Minnesota (respondent-employer)

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

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

**NONPRECEDENTIAL OPINION**

**SMITH, TRACY M., Judge**

Relator Justin McDuff appeals from an unemployment-law judge's (ULJ)  
determination that he is not eligible for unemployment benefits because he quit his

employment. Because the record supports the ULJ's finding that McDuff quit due to his perception that he was being harassed by his employer, and because that perception did not constitute a good reason for quitting caused by the employer, we affirm.

## **FACTS**

McDuff began working for Half Moon Clippers, LLC, in November 2018 as a stylist at a Great Clips franchise. McDuff initially worked at a Great Clips in the Midway area of St. Paul, but, at the beginning of the COVID-19 pandemic in spring 2020, this location closed. McDuff then worked for Great Clips at a Vadnais Heights location after that location reopened in June 2020. He was paid \$14 per hour plus tips.

When he began working at the Vadnais Heights location, McDuff asked not to work on Sundays, Mondays, or Tuesdays. McDuff said that he needed those days off to go to Duluth to be with his sister, who was going through a divorce, and to be with his aunt, who was ill. McDuff's request was granted. After June 1, 2020, McDuff requested and was paid unemployment benefits. Jason Rude, the franchise owner, questioned whether McDuff was legitimately eligible for unemployment benefits given that it was his desire to work less than full-time and suggested to McDuff that he was committing fraud.

On March 20, 2021, Rude called McDuff and asked him when he was going to come back to work full-time. McDuff responded that he did not intend to return to full-time work because of ongoing family issues. Following the phone call, McDuff decided to quit. He turned in his key the following day.

McDuff again applied for unemployment benefits. DEED administratively determined that McDuff had good cause to quit and that he would remain eligible for

benefits. Great Clips appealed that decision. Following an evidentiary hearing that included testimony from McDuff and Rude, the ULJ found that McDuff quit because he felt he was being harassed by Rude, that this was not a good reason caused by the employer, and that McDuff was therefore ineligible for unemployment benefits. McDuff requested reconsideration, and the ULJ affirmed his decision.

McDuff appeals by certiorari.

### **DECISION**

When reviewing a ULJ's decision, we may affirm the decision or remand for further proceedings, or we may reverse or modify the decision if the relator's substantial rights may have been prejudiced by lack of substantial evidence or an error of law. Minn. Stat. § 268.105, subd. 7(d) (2020). McDuff argues that the ULJ erred by (1) determining that he did not quit for a good reason caused by his employer and (2) declining to order a new hearing.

#### **I. The ULJ did not err by determining that McDuff did not quit for a good reason caused by the employer.**

An applicant who quits employment is ineligible for unemployment benefits unless one of ten statutory exceptions applies. Minn. Stat. § 268.095, subd. 1 (2020). Here, the relevant exception is whether the employee quit due to a “good reason caused by the employer.” *See id.*, subd. 1(1).

The reason why an employee quit is a question of fact. *Stassen v. Lone Mountain Truck Leasing, LLC*, 814 N.W.2d 25, 31 (Minn. App. 2012). “In unemployment benefits cases, we review the ULJ's findings of fact 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.” *Wilson v. Mortg. Res. Ctr., Inc.*, 888 N.W.2d 452, 460 (Minn. 2016) (quotations omitted). Whether the reason for quitting constituted a good reason to quit caused by the employer is a question of law. *Rowan v. Dream It, Inc.*, 812 N.W.2d 879, 883 (Minn. App. 2012). We review that question de novo. *Id.*

**A. The record supports the ULJ’s finding of the reason for the quit.**

McDuff argues that he quit “due to harassing, poor and unpleasant workplace conditions and a significant reduction to my income due to lack of clients.” McDuff appears to challenge the ULJ’s factual finding that McDuff quit for one reason—his perception that Rude was harassing him.

The ULJ’s finding is supported by the record. When asked at the hearing if something happened on March 20 that made him decide to quit, McDuff stated that Rude had called him and asked when he was going to come back to work full-time. McDuff objected to Rude’s “approach” and said that it had “got to a point of like accusing [him] of committing fraud.” When the ULJ asked McDuff whether he would have continued to work at Great Clips if Rude had not “been so insistent about working full-time and accusing [him] of fraud,” McDuff responded, “Yeah. I probably would have.” As the ULJ noted, McDuff had continued to work at the Vadnais Heights location for nine months even though it had fewer clients. In addition, following his departure from Great Clips, McDuff continued to search for work as a hairstylist, despite the entire industry being affected by the COVID-19 pandemic. The record supports the ULJ’s finding that McDuff quit because

he felt he was being harassed by Rude about his work hours and his receipt of unemployment benefits, not because of reduced income due to fewer clients.

**B. McDuff did not quit for a good reason caused by the employer.**

The ULJ concluded that McDuff's perception of harassment did not satisfy the good-reason exception to the quit rule. We agree.

Good reason caused by the employer is a reason caused by the employer that is directly related to the employment, is adverse to the worker, and "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). Rude questioned McDuff about when he was going to return to full-time work and questioned whether McDuff was legitimately collecting unemployment benefits. There is nothing in the record to show that Rude's questioning affected the terms or conditions of McDuff's employment, and such questioning in itself is not adverse to an employee. Moreover, Rude's questioning would not have compelled the average employee to quit. To compel is "[t]o cause or bring about by force, threats, or overwhelming pressure." *Werner v. Med. Pros. LLC*, 782 N.W.2d 840, 843 (Minn. App. 2010), *rev. denied* (Minn. Aug. 10, 2010) (quoting *Black's Law Dictionary* 321 (9th ed. 2009)). Harassment on the job can constitute good cause for an employee to quit. *Tru-Stone Corp. v. Gutzkow*, 400 N.W.2d 836, 838 (Minn. App. 1987). But, while Rude's questioning may have been upsetting to McDuff, it would not have compelled an average, reasonable worker to quit in the circumstances.

Because the record supports the ULJ's determination that McDuff did not quit due to a good reason caused by the employer, the ULJ correctly concluded that McDuff is ineligible for unemployment benefits.

## **II. The ULJ's denial of an additional hearing was not an abuse of discretion.**

McDuff also argues that the ULJ should have granted him a new hearing. A ULJ must order an additional hearing

if a party shows that evidence which was not submitted at the hearing:

(1) would likely change the outcome of the decision and there was good cause for not having previously submitted that evidence; or

(2) would show that the evidence that was submitted at the hearing was likely false and that the likely false evidence had an effect on the outcome of the decision.

Minn. Stat. § 268.105, subd. 2(c) (2020). This court will “not reverse a ULJ's decision to deny an additional evidentiary hearing unless the decision constitutes an abuse of discretion.” *Kelly v. Ambassador Press, Inc.*, 792 N.W.2d 103, 104 (Minn. App. 2010).

McDuff requested reconsideration and submitted a letter from an attorney as well as text messages between McDuff and Rude. The attorney's letter explains McDuff's situation and argues that McDuff quit for a good reason caused by the employer. The text messages, according to McDuff, corroborate that he quit because of reduced hours and canceled or shortened shifts. The ULJ denied a new hearing, reasoning that McDuff did not give a reason for not submitting the evidence at the hearing and that the new evidence would not likely change the outcome.

McDuff complains that the ULJ made the decision not to grant a new hearing before receiving the attorney's letter, but in the decision denying a new hearing, the ULJ expressly recognized the letter and accompanying documents as new information. The ULJ declined to order a new hearing because (1) McDuff did not provide good cause for not submitting the letter and text messages at the hearing and (2) the new information in the documents was not likely to change the outcome because the issue that the information raised—the reason that McDuff quit—had already been adequately addressed at the hearing. We discern no abuse of discretion in those determinations or in the decision to deny a new hearing.

**Affirmed.**