STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1379

Rachel A. Grages,
Relator,

vs.

We Care Day Care, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

Filed July 11, 2022
Affirmed
Segal, Chief Judge

Department of Employment and Economic Development
File No. 45520214-3

Nicole M. Mourgos, Southern Minnesota Regional Legal Services, Inc., Mankato, Minnesota (for relator)

We Care Day Care, Inc., Worthington, Minnesota (respondent employer)

Munazza Humayun, Anne B. Froelich, Minnesota Department of Employment and Economic Development, St. Paul, Minnesota (for respondent department)

Considered and decided by Bjorkman, Presiding Judge; Segal, Chief Judge; and Hooten, Judge.*

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

NONPRECEDENTIAL OPINION

SEGAL, Chief Judge

Relator challenges the decision of an unemployment-law judge (ULJ) that she was ineligible for unemployment benefits because she quit her job and did not meet the statutory exception to ineligibility for quitting employment "because of a good reason caused by the employer." Minn. Stat. § 268.095, subd. 1(1) (2020). We affirm.

FACTS

Relator Rachel Grages was employed by respondent We Care Day Care, Inc. (the daycare) from April 2013 until February 2021. At the end of her employment, Grages worked full-time as an assistant director and preschool instructor. Grages reported to the executive director of the daycare. The daycare prepares and offers meals and snacks to the children through its participation in a federal nutrition program. The meals are offered to the staff free of charge, and the program recommends that staff members eat with the children to encourage the children to try new, nutritious foods. However, staff members are not required to eat the meals provided.

In January 2021, the executive director requested that staff members limit how often they ordered food from outside sources. The executive director also requested that staff members who planned to order lunch ask the rest of the staff if they were interested in ordering food. The executive director allegedly made these requests because of the federal nutrition program recommendations and state childcare regulations. The daycare asserted that Minnesota regulations governing childcare facilities require that program staff be seated with children during mealtimes and that childcare facilities maintain an appropriate

staff-to-child ratio. Having staff members leave the daycare to pick up lunch could result in the daycare failing to comply with these regulations. Staff were permitted to take an unpaid lunch break, but the executive director requested that they notify her in advance to ensure that the daycare maintained the appropriate staff-to-child ratio.

On February 18, 2021, Grages and a coworker ordered lunch and the coworker's boyfriend dropped the food off at the daycare. When Grages went into the daycare's kitchen to get the food, the executive director was in the kitchen. The executive director asked Grages if she offered to order food for the staff and Grages replied that she did not. The executive director reminded Grages that staff members were encouraged to limit ordering food from outside sources and indicated that she could schedule Grages a lunch break if notified in advance. Grages "became very emotional" and went into the bathroom. She then confronted the executive director, told her she was a horrible boss, and left. Grages sent a text message the following morning that said it was "with a very heavy heart" that she would not be in to work, and that "[w]ords cannot express how hurt and betrayed" she felt. She picked up her final paycheck and turned in her uniforms and keys to the daycare later that day.

Grages subsequently established an unemployment-benefit account with respondent Minnesota Department of Employment and Economic Development (DEED). DEED issued a determination of ineligibility. Grages appealed this determination, and a ULJ held an evidentiary hearing. Grages and the executive director testified at the hearing and gave their accounts of the February 18 incident that led to Grages quitting her employment. Grages also testified about her strained relationship with the executive director. Grages

indicated that she had problems with the executive director's "anger issues," and that she had expressed her concerns to the executive director several times prior to the February 18 incident. Grages testified that the executive director had "anger spouts," during which she would yell, slam doors, and throw things.

The ULJ issued a decision concluding that Grages quit for a good reason caused by her employer and was therefore eligible for unemployment benefits if other requirements were met. The ULJ determined that "Grages quit because she was not allowed a sufficient amount of time to eat her lunch" as required by Minn. Stat. § 177.254, subd. 1 (2020), and that this was a good reason to quit caused by her employer. The ULJ also found that Grages quit, in part, "because she was scolded for ordering lunch from an outside source," but that this did not constitute a good reason caused by her employer to quit her job. The daycare requested reconsideration of the decision.

On reconsideration, the ULJ issued an amended decision and determined that Grages quit not because she was denied a meal break, but "because she was upset that [the executive director] scolded her for not asking all employees if they wanted to eat out and for not eating the meals prepared by the daycare." The ULJ, however, still determined, as in the initial decision, that this did not constitute a good reason to quit caused by the employer. Grages was thus found to be ineligible for benefits. Grages appeals by writ of certiorari.

DECISION

When reviewing a ULJ's eligibility decision, this court may affirm, remand for further proceedings, or reverse or modify the decision if the substantial rights of the relator may have been prejudiced because the findings, inferences, conclusion, or decision are affected by an error of law or are unsupported by substantial evidence. Minn. Stat. § 268.105, subd. 7(d) (2020). Factual findings are viewed in the light most favorable to the ULJ's decision and this court will not disturb them if they are substantially supported by the evidence in the record. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006).

An applicant for unemployment benefits is ineligible for benefits if she quit her employment unless an exception applies. Minn. Stat. § 268.095, subd. 1 (2020). One such exception is that an employee quit "because of a good reason caused by the employer." *Id.*, subd. 1(1). To qualify for this exception, the reason must (1) be "directly related to the employment and for which the employer is responsible"; (2) be "adverse" to the employee; and (3) be one "that would compel an average, reasonable [employee] to quit and become unemployed rather than remaining in the employment." *Id.*, subd. 3(a) (2020).

Whether an employee had a good reason to quit caused by the employer is a question of law, reviewed de novo. *Rowan v. Dream It, Inc.*, 812 N.W.2d 879, 883 (Minn. App. 2012). But the reason an employee quit is a question of fact. *See Beyer v. Heavy Duty Air, Inc.*, 393 N.W.2d 380, 382 (Minn. App. 1986) (reviewing a determination of the reason an employee quit as a question of fact). The determination that an employee did not have a

good reason to quit must be based on factual findings supported by substantial evidence. *Nichols v. Reliant Eng'g & Mfg., Inc.*, 720 N.W.2d 590, 594 (Minn. App. 2006).

Grages argues first that she had a good reason caused by her employer to quit "because the [daycare] violated Minnesota mealtime laws" by not providing her with a meal break. She argues that this constitutes a per se good reason to quit caused by her employer. The ULJ found in the amended decision, however, that Grages quit "because she had a personality conflict with [the executive director] and because she was scolded for ordering lunch from an outside source," not because of any alleged violation of mealtime laws. And the record supports the ULJ's factual finding that this was the reason Grages quit.

The record reflects that, in her appeal of DEED's initial determination of ineligibility, Grages stated that she "left [the daycare] due to the continuous maltreatment and abusive treatment by the [executive] director." At the evidentiary hearing granted in response to her appeal, Grages responded to a question about why she quit by stating, "there were a lot of altercations that actually led up to this." She then testified about the executive director's "anger spouts" and concerning behavior and said that she "became very emotional" when the executive director confronted her in the kitchen about ordering food from an outside source and not offering to order food for everyone. Finally, Grages's brief to this court expressly states that she "did not quit because of the consistent denial of a meal break" but rather "because of the abusive treatment she received from [the executive director] for having ordered outside food to eat, behavior that had occurred many times." The record thus contains substantial evidence that Grages quit because of her ongoing

personality conflict with the executive director and the February 18 incident when the executive director scolded Grages, not because the daycare allegedly violated mealtime laws.[1]

Grages argues second that she had good reason to quit caused by her employer based on the executive director's conduct toward her. This is a somewhat closer question. There is evidence in the record that, when angry, the executive director would yell, swear under her breath, slam doors, and throw items, like throwing eating utensils in the kitchen sink or pens at the floor. There is no evidence, however, that the executive director threw items at Grages or other employees. In addition, Grages testified that a main issue for her was that the executive director inappropriately addressed issues with employees in front of the children and not in a private room. Grages also acknowledged that some of the incidents she testified about were in connection with other employees, not her.

The ULJ determined in the amended decision that "[a] preponderance of the evidence shows Grages did not like how [the executive director] talked to her or behaved generally when frustrated," and that "Grages felt belittled by [the executive director] when [the executive director] instructed her to perform tasks." The ULJ ruled, however, that "an average reasonable worker would not quit because of [the executive director's] behavior." Based on the evidence in the record, we cannot conclude that the ULJ erred, as a matter of

[1] We also note that the cited law, Minn. Stat. § 177.254, subd. 1, provides: "An employer must permit each employee who is working for eight or more consecutive hours sufficient time to eat a meal." Grages never asserted that she was not allowed sufficient time to eat a meal. The record also shows that Grages was paid when eating lunch with the children and that Grages had the opportunity to take unpaid meal breaks away from her work duties when requested in advance.

law, in reaching this conclusion. *See, e.g.*, *Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 14 (Minn. App. 1986) (holding that "[u]nsatisfactory working conditions and a poor relationship with a supervisor did not give [the employee] good cause to quit"); *Bongiovanni v. Vanlor Invs.*, 370 N.W.2d 697, 697 (Minn. App. 1985) (holding that "disharmony between an executive and the employee" does not constitute good cause to quit).

We note that Grages's brief in this appeal focuses on the determination in the initial ULJ decision that Grages failed to establish that she complained to her employer about the executive director's conduct and gave "the employer a reasonable opportunity to correct the adverse working conditions before . . . quitting." Minn. Stat. § 268.095, subd. 3(c) (2020). Notice to the employer and an opportunity to cure are prerequisites to being able to demonstrate good cause for quitting due to "adverse working conditions." *Id.* Grages's argument, however, misses the mark for two reasons. First, the ULJ did not include this determination in the amended decision and simply concluded that the alleged adverse working conditions were not sufficient to constitute "[a] good reason caused by the employer for quitting." *Id.*, subd. 3(a). And second, because we agree with that legal conclusion, Grages would be ineligible for unemployment benefits regardless of whether she provided notice and an opportunity to cure the alleged adverse working conditions.

Finally, Grages argues that "[t]he ULJ erred by considering additional evidence outside of the limited scope of whether to order an additional hearing." When the daycare filed its request for reconsideration, it submitted ten statements from previous and current employers that asserted the employees were provided with adequate time to eat meals.

Grages argues that "[i]t appears from the changed reconsideration outcome that the ULJ was improperly influenced by this evidence from the employer to alter the outcome of the case, but [that] the ULJ erroneously did this without holding a second hearing." We are not persuaded.

The unemployment benefits statute provides that, on reconsideration, new evidence may not be considered except for the purpose of determining whether to order an additional hearing. Minn. Stat. § 268.105, subd. 2(c) (2020). The statute then sets out the criteria for deciding whether to order a supplemental hearing, including whether the new evidence "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." *Id*., subd. 2(c)(2). The ULJ concluded in the amended decision that the new evidence "does not show that the evidence submitted at the hearing was likely false and that the likely false evidence had an effect on the outcome of the decision," and that it "would not likely change the outcome of the decision." The amended decision does not otherwise reference the new evidence. It thus appears that the ULJ followed the statute and only considered the new evidence to determine whether a second hearing should be ordered. We therefore discern no basis to conclude that the newly submitted evidence improperly influenced the ULJ's decision.

Affirmed.