

*This opinion is nonprecedential except as provided by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
A21-1547**

Andrew D. Forsgren,
Relator,

vs.

University of Minnesota Physicians Corp.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed September 19, 2022
Affirmed
Johnson, Judge**

Department of Employment and Economic Development
File No. 47072549-3

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University of Minnesota Physicians Corp., Minneapolis, Minnesota (respondent employer)

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Considered and decided by Frisch, Presiding Judge; Worke, Judge; and Johnson,
Judge.

NONPRECEDENTIAL OPINION

JOHNSON, Judge

Andrew D. Forsgren quit his job to avoid being fired. He gave a four-week notice of his intent to resign. His employer required him to resign immediately and paid him for the remainder of that pay period. An unemployment-law judge concluded that Forsgren was eligible for unemployment benefits as of the week in which the employer required him to stop working but was ineligible as of the week in which he had intended to quit. We conclude that the unemployment-law judge properly applied the applicable statute. Therefore, we affirm.

FACTS

Forsgren was employed by University of Minnesota Physicians Corporation (UMPC) from early 2020 until mid 2021 as a physician assistant in its orthopedic surgery department. At the end of his employment, Forsgren's salary was \$115,258 per year. Forsgren's primary duty was to assist surgeons and medical residents with surgical procedures in an operating room. His secondary duty was to perform "day-call" work at other UMPC worksites on short notice upon being paged. At the beginning of his employment, day-call work was intended to be only an occasional duty. But in March 2021, Forsgren was asked to do day-call work more often, once each week, while a colleague was on a three-month maternity leave.

In a performance review in late March or early April 2021, Forsgren's supervisor gave him negative feedback. Specifically, the supervisor said that Forsgren too often was late in arriving at the operating room, had not sufficiently memorized procedures, and was

inefficient in suturing patients. After his performance review, Forsgren made an effort to improve his performance. But he struggled with day-call work, which was fast-paced and stressful for him. In the spring of 2021, Forsgren was informed that his weekly day-call duty would be extended indefinitely. Forsgren considered quitting because the day-call work was starting to take a toll on his mental health, but he did not believe that he needed to quit imminently and instead began looking for other jobs.

On June 21, 2021, Forsgren's supervisor told him that his performance had not sufficiently improved and that he would be terminated within two weeks. On June 24, 2021, Forsgren gave notice that he would resign on July 23, 2021. The next day, June 25, 2021, a person in UMPC's human resources department told Forsgren that he could not remain employed until July 23, 2021, that he would be relieved of his duties that day, and that he could remain on the payroll through the end of that pay period on July 1, 2021. Forsgren was given the option of accelerating his resignation in that manner or being discharged immediately. He chose to resign, effective July 1, 2021.

Forsgren applied for unemployment benefits. The department of employment and economic development made an initial determination that he was ineligible for benefits on the ground that he quit his job. Forsgren filed an administrative appeal. An unemployment-law judge (ULJ) conducted a hearing on two days in September 2021. Forsgren testified on his own behalf and called his therapist to provide testimony concerning the effects of his performing day-call work. UMPC did not appear at the hearing.

The ULJ found that Forsgren quit his employment effective July 23, 2021. The ULJ also found that Forsgren was discharged for reasons other than misconduct on June 25, 2021. Accordingly, the ULJ concluded that Forsgren was eligible for benefits beginning the week of his discharge but ineligible for benefits beginning the week of his intended quit date. Forsgren requested reconsideration, and the ULJ affirmed the earlier decision. Forsgren appeals by way of a writ of certiorari.

DECISION

Forsgren argues that the ULJ erred by concluding that he is ineligible for unemployment benefits as of the week of his intended quit date.

In general, this court reviews a ULJ's decision denying benefits to determine whether the findings, inferences, conclusions, or decision are affected by an error of law or are "unsupported by substantial evidence in view of the hearing record." Minn. Stat. § 268.105, subd. 7(d)(4), (5) (2020). The evidentiary hearing is an evidence-gathering inquiry and is conducted without regard to any particular burden of proof. *See* Minn. Stat. § 268.069, subd. 2 (2020); *Vargas v. Northwest Area Found.*, 673 N.W.2d 200, 205 (Minn. App. 2004), *rev. denied* (Minn. Mar. 30, 2004). We view a ULJ's factual findings in the light most favorable to the ULJ's decision. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). If the relevant facts are undisputed, we apply a *de novo* standard of review to the question whether an applicant is eligible for benefits. *Grunow v. Walser Auto. Grp. LLC*, 779 N.W.2d 577, 579 (Minn. App. 2010).

Unemployment benefits are intended to provide financial assistance to persons who have been discharged from employment "through no fault of their own." *Stagg v. Vintage*

Place Inc., 796 N.W.2d 312, 315 (Minn. 2011) (quotation omitted). Thus, a person who quits employment generally is ineligible for unemployment benefits. Minn. Stat. § 268.095, subd. 1 (2020). “A quit from employment occurs when the decision to end the employment was, at the time the employment ended, the employee’s.” *Id.*, subd. 2(a). But a person may be eligible for benefits despite having quit if one of several statutory exceptions applies. *Id.*, subd. 1(1)-(9).

Forsgren makes three arguments for reversal, which we address in turn.

I. Good-Reason Exception

Forsgren first argues that the ULJ erred by not finding that he quit for a good reason caused by UMPC.

One of the statutory exceptions to the quit rule applies if “the applicant quit the employment because of a good reason caused by the employer.” *Id.*, subd. 1(1). “A good reason caused by the employer . . . 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).

Forsgren contends that he quit for a good reason caused by UMPC because, in June 2021, he was assigned to day-call work once per week, which was more than what was intended at the beginning of his employment. In response, the department contends that the exception does not apply because the ULJ found, as a matter of fact, that Forsgren did not quit because he was assigned to additional day-call work.

The ULJ found that Forsgren quit because he expected to be involuntarily terminated and did not want a discharge on his employment record. Forsgren does not challenge that finding. We nonetheless note that the finding is supported by Forsgren’s testimony that he preferred to resign instead of being fired. In addition, Forsgren previously had answered a questionnaire by stating that he quit because he had been informed that he would be terminated within two weeks. The relevant statute expressly states that Forsgren’s reason for quitting is not a good reason caused by the employer: “Notification of discharge in the future . . . is not a good reason caused by the employer for quitting.” *Id.*, subd. 3(e); *see also Ward v. Delta Airlines*, 973 N.W.2d 649, 652-53 (Minn. App. 2022), *rev. denied* (Minn. June 21, 2022). Accordingly, it is unnecessary to consider whether each of the three requirements of subdivision 3(a) is satisfied.

Thus, the ULJ did not err by concluding that Forsgren quit for a reason other than a good reason caused by the employer.

II. Medical-Necessity Exception

Forsgren next argues that the ULJ erred by not finding that he quit because of a medical necessity.

A person may be eligible for unemployment benefits despite having quit employment if he or she quit “because the applicant’s serious illness or injury made it medically necessary that the applicant quit.” *Id.*, subd. 1(7). “This exception only applies if the applicant informs the employer of the medical problem and requests accommodation and no reasonable accommodation is made available.” *Id.*

Forsgren contends that it was medically necessary for him to quit because he had a medical condition that was exacerbated by the unexpected increase in his day-call duties. In response, the department contends that this exception does not apply for the same reason that the good-reason exception does not apply. Indeed, the ULJ mentioned the medical-necessity exception but found that Forsgren “quit his employment because he wanted to avoid being discharged,” not because it was medically necessary. Again, Forsgren does not challenge that finding. In addition, the ULJ found in the alternative that “the evidence does not show that it was medically necessary for Forsgren to quit.” That alternative finding is supported by Forsgren’s testimony that he might have quit in the future because of his medical condition but that, on the day he gave notice of his resignation, “it wasn’t to that point quite yet.”

Thus, the ULJ did not err by concluding that Forsgren did not quit because of a medical necessity.

III. Timing of Quit and Discharge

Forsgren last argues that the ULJ erred by concluding that his quit made him ineligible as of July 23, 2021, the date on which he intended his quit to be effective.

The circumstances of this case are governed by multiple statutory provisions. “An employee who has been notified that the employee will be discharged in the future, who chooses to end the employment while employment in any capacity is still available, has quit the employment.” *Id.*, subd. 2(c). “An employee who gives notice of intention to quit the employment and is not allowed by the employer to work the entire notice period is discharged from the employment as of the date the employer will no longer allow the

employee to work.” *Id.*, subd. 5(d). “If the discharge occurs within 30 calendar days before the intended date of quitting, then, as of the intended date of quitting, the separation from employment is a quit from employment” *Id.* In light of these statutory provisions, the ULJ concluded that Forsgren was eligible for unemployment benefits as of the week of June 25, 2021, when UMPC required him to stop working, but became ineligible for unemployment benefits as of the week of July 23, 2021, when he intended his quit to be effective.

Forsgren contends that the ULJ should not have applied section 268.095, subdivision 5(d), on the ground that UMPC encouraged him to give a four-week notice of his resignation (instead of an eight-week notice, which is the norm at UMPC) and that UMPC led him to believe that he would be allowed to work all of the four-week period. His argument is based on his testimony that UMPC’s policies require an employee in Forsgren’s position to give an eight-week notice of resignation and provide that if a person fails to do so, the termination is deemed involuntary, and the employee is not eligible to be rehired. Forsgren testified that he had asked his manager several weeks earlier whether he could be allowed to give less than eight weeks of notice and still be eligible for rehire and was told that a four-week notice would be acceptable. But when Forsgren actually gave his notice of resignation, UMPC decided that Forsgren should stop working immediately and remain on the payroll only until the end of the pay period.

Forsgren does not dispute that section 268.095, subdivision 5(d), speaks directly to the facts of this case. Instead, he notes that a different set of facts (such as an eight-week notice or an involuntary termination) would have led to a different outcome, and he

contends that the statute gives employers the opportunity “to manipulate situations like this one to deprive individuals of unemployment benefits.” Yet he does not contend that, in late June 2021, UMPC acted with the intent to deny him unemployment benefits. It appears that Forsgren is urging the court to rule in his favor on an equitable basis that is contrary to the applicable statute. But the unemployment statutes provide, “There is no equitable or common law denial or allowance of unemployment benefits.” Minn. Stat. § 268.069, subd. 3 (2020). Accordingly, we do not have authority to order the payments of benefits “as a matter of equity.” *Irvine v. St. John’s Lutheran Church*, 779 N.W.2d 101, 105 (Minn. App. 2010).

Thus, the ULJ did not err by concluding that Forsgren is ineligible for unemployment benefits as of the week of July 23, 2021.

Affirmed.