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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A10-1106**

Robert Ihinger,  
Relator,

vs.

Ultimate Acquisition Partners, LP,  
Respondent,

Department of Employment and Economic Development,  
Respondent.

**Filed March 29, 2011  
Affirmed  
Schellhas, Judge**

Department of Employment and Economic Development  
Agency File No. 23962615-3

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Minnesota (respondent Ultimate Acquisition Partners LP)

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Considered and decided by Shumaker, Presiding Judge; Halbrooks, Judge; and  
Schellhas, Judge.

## UNPUBLISHED OPINION

SCHELLHAS, Judge

In this unemployment-benefits appeal, relator argues that the unemployment-law judge erred by deciding that he was ineligible for benefits because he quit without a good reason caused by the employer. Because relator was not subjected to “force, threats, or overwhelming pressure,” we affirm.

### FACTS

Respondent-employer Ultimate Acquisition Partners LP, an electronics retailer, hired relator Robert Ihinger as a salesperson on January 10, 2008. On June 25, 2008, general manager Andrew Bastyr and sales manager Scott Whiteis, who was relator’s direct supervisor, requested a meeting with relator. At the close of the meeting, relator resigned and collected two weeks’ severance pay.

Relator applied for unemployment benefits, and respondent Minnesota Department of Employment and Economic Development (DEED) determined that he was ineligible because he quit without a good reason caused by the employer. Relator appealed to an unemployment-law judge (ULJ). The ULJ found that at the meeting, Bastyr and Whiteis told relator that his two options were to go on a performance-improvement plan (PIP) or resign and receive two weeks’ pay. The ULJ found that Bastyr told relator that the PIP “would likely lead to his termination,” which “would likely occur soon after being placed on the PIP,” but did not tell him that he would be discharged that day, or give him a specific date he would be discharged. The ULJ found

that relator chose to resign and take the severance pay rather than continue working under the PIP.

Based on her findings, the ULJ decided that relator was ineligible for benefits because he quit without a good reason caused by Ultimate. This certiorari appeal follows.

## **D E C I S I O N**

Relator argues that the ULJ erred by concluding that he did not have a good reason caused by his employer for quitting. We may reverse or modify a ULJ's decision if the relator's substantial rights were prejudiced because the ULJ's findings, inferences, conclusion, or decision were, among other grounds, affected by an error of law or unsupported by substantial evidence in the record. Minn. Stat. § 268.105, subd. 7(d) (2008). We give deference to the ULJ's credibility determinations, view the ULJ's findings in the light most favorable to the decision, and will not disturb those findings if the evidence substantially sustains them. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). We review legal questions de novo. *Id.*

An applicant who quits employment is generally ineligible for unemployment benefits unless an exception applies. Minn. Stat. § 268.095, subd. 1 (Supp. 2009). One exception provides that an applicant may be eligible if he or she "quit the employment because of a good reason caused by the employer." *Id.*, subd. 1(1). A good reason caused by the employer for quitting is a reason adverse to the worker for which the employer is responsible "that would *compel* an average, reasonable worker to quit and become unemployed rather than remaining in the employment." *Id.*, subd. 3(a) (2008)

(emphasis added). “To compel is to cause or bring about by force, threats, or overwhelming pressure.” *Werner v. Med. Prof’ls LLC*, 782 N.W.2d 840, 843 (Minn. App. 2010) (quotation omitted), *review denied* (Minn. Aug. 10, 2010). “[T]here must be some compulsion produced by extraneous and necessitous circumstances.” *Id.* (quoting *Ferguson v. Dep’t of Emp’t Servs.*, 311 Minn. 34, 44 n.5, 247 N.W.2d 895, 900 n.5 (1976)) (quotation marks omitted). “Notification of discharge in the future . . . is not considered a good reason caused by the employer for quitting.” Minn. Stat. § 268.095, subd. 3(e) (2008).

Here, the ULJ’s findings about what happened at the meeting are supported by the record. Both Bastyr and Whiteis testified that they gave relator the option of going on the PIP or resigning immediately with two weeks’ severance pay, and although Bastyr testified that the PIP would “very quickly lead to [relator’s] termination” because Bastyr did not anticipate relator’s performance improving, both Bastyr and Whiteis testified that relator would not have been terminated that day, and continuing work would have been available to him. Nothing in the ULJ’s findings suggests that Ultimate forced relator to resign, threatened him, or otherwise subjected him to the “overwhelming pressure” that would *compel* an average, reasonable person to quit. *See id.* The ULJ therefore correctly decided that relator was ineligible for unemployment benefits because he quit without a good reason caused by the employer.

**Affirmed.**