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

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A10-1354**

William Cook,  
Relator,

vs.

AAF-McQuay, Inc.,  
Respondent,

Department of Employment and Economic Development,  
Respondent.

**Filed April 12, 2011  
Affirmed  
Lansing, Judge**

Department of Employment and Economic Development  
File No. 25133855-4

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William Cook, Faribault, Minnesota (pro se relator)

AAF-McQuay Inc., St. Louis, Missouri (respondent)

Lee B. Nelson, Minnesota Department of Employment and Economic Development,  
St. Paul, Minnesota (for respondent Department of Employment and Economic  
Development)

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Considered and decided by Ross, Presiding Judge; Lansing, Judge; and Connolly,  
Judge.

## UNPUBLISHED OPINION

LANSING, Judge

In this certiorari appeal, William Cook challenges an unemployment law judge's determination that he is ineligible to receive unemployment benefits. Because substantial evidence in the record supports the determination that Cook quit for personal reasons unattributable to his employer, we affirm.

### FACTS

AAF-McQuay employed William Cook as an assembly worker from March 1978 to April 22, 2010. On April 16, 2010, Cook spoke with a human-resources employee and told her that he wanted to end his employment. Cook signed a resignation form terminating his employment effective April 22, 2010. Cook applied to the Minnesota Department of Employment and Economic Development for unemployment-compensation benefits. A department adjudicator denied benefits based on a determination that Cook had voluntarily quit his employment and none of the statutory exceptions to ineligibility applied. He appealed this determination and an unemployment law judge (ULJ) held a hearing at which Cook and two AAF-McQuay human-resource employees testified.

Cook, a member of the sheet-metal worker's union, testified that he submitted his resignation because he had heard a rumor from his union shop steward that he was about to be discharged. Cook said that he wanted to avoid losing vacation pay or tarnishing his employment record. He also said that he had consistently failed to punch out over the lunch-hour, and he believed this might be a basis for his discharge. Cook acknowledged

that his immediate supervisor had not said anything to him about his failure to punch out and that he did not speak with his immediate supervisor or anyone in management about his concerns that he might be fired. Cook also said that he quit because he wanted a change and he wanted to help his elderly parents.

The human-resources employee who met with Cook before he resigned testified that Cook said he wanted to quit for personal reasons. When she asked if he wanted to consider the decision over the weekend, he said, “No,” because his “parents are needing help” and it was time for him to “move on.” These are the reasons stated on the resignation form that Cook signed.

Another human-resources employee testified that the union contract provides that an employee could be fired only after committing four rule violations within a twelve-month period. Cook had only one rule violation—for failure to follow proper assembly-line procedure. Cook testified that he was aware of the union-contract rule and knew when he quit that he had only one violation on file.

The ULJ concluded that Cook quit his employment for personal reasons and not because of a good reason caused by his employer. Cook requested reconsideration, and the ULJ affirmed the decision. Cook now petitions for review, contending that he quit employment for a good reason attributable to his employer.

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

We review a ULJ’s ineligibility decision to determine whether substantial rights were prejudiced because the findings, inferences, conclusion, or decision are unsupported

by substantial evidence in view of the record as a whole or affected by an error of law. Minn. Stat. § 268.105, subd. 7(d) (2008).

An employee who quits employment is ineligible to receive unemployment compensation benefits unless a statutory exception applies. Minn. Stat. § 268.095, subd. 1 (Supp 2009). “[A] good reason [to quit] caused by the employer” is an exception to ineligibility. *Id.*, subd. 1(1). A “good reason caused by the employer” is a reason that directly relates to employment for which the employer is responsible, is adverse to the employee and “would compel an average, reasonable worker to quit.” Minn. Stat. § 268.095, subd. 3(a)(1)-(3) (2008). The determination that an employee quit without good reason caused by the employer is a legal conclusion that we review de novo. *Nichols v. Reliant Eng’g & Mfg., Inc.*, 720 N.W.2d 590, 594 (Minn. App. 2006).

The three reasons that Cook has provided for quitting his employment are that it was time for a change, he wanted to help his elderly parents, and he believed he was about to be discharged.

The ULJ specifically found that Cook’s desire for a change and his intention to help his elderly parents are personal reasons not attributable to his employer. Minnesota law supports this conclusion. A personal desire for change in employment is not an exception to the general provision that an employee who quits employment is ineligible to receive unemployment compensation. *See* Minn. Stat. § 268.095, subd. 3(a) (requiring that good reason for quitting must be attributable to employer). Although necessary care for disability of an immediate family member may constitute an exception, this exception

does not apply unless the employer is notified, and the employee seeks a reasonable accommodation. *Id.*, subd. 1(7) (Supp. 2009). Cook did not request accommodation.

The third reason Cook provided for quitting was that he believed he would be discharged in the near future. Choosing to leave employment in anticipation of being discharged is not an exception to the general provision that an employee who quits is ineligible for unemployment benefits. Minn. Stat. § 268.095, subd. 3(e) (2008). Cook's stated motivation—a desire to avoid discharge and the negative impact on his employment record—is understandable, but it is not a good reason for quitting that is attributable to his employer.

Cook raises three other issues that relate primarily to factual determinations. First, he claims that AAF-McQuay inaccurately testified that, at the time he resigned, it did not have grounds to dismiss him for his multiple failures to punch out at lunch. This assertion is contrary to the record that establishes that four violations within a twelve-month period are necessary for discharge. It is undisputed that Cook had only one violation. Furthermore, Cook's factual dispute would not change the legal determination that a preemptive resignation does not allow eligibility for unemployment compensation. *See Seacrist v. City of Cottage Grove*, 344 N.W.2d 889, 891-92 (Minn. App. 1984) (holding that employee who resigned rather than face disciplinary and discharge proceedings voluntarily quit without good cause attributable to employer).

Second, Cook contends that he thought he had the weekend to consider his decision, but his employer denied his Monday morning request to rescind his resignation. The ULJ found that before Cook signed the resignation form, his employer asked him

whether he wanted to consider the decision over the weekend and Cook said, “No.” He then signed the resignation. Once an employee submits notice of resignation, the employee is considered to have quit unless the employer agrees that the notice may be withdrawn. Minn. Stat. § 268.095, subd. 2(c) (Supp. 2009). AAF-McQuay has not agreed that the notice may be withdrawn.

Third, Cook asserts that he quit because of a “potentially hostile atmosphere.” The record is devoid of any facts to support this claim. A good reason to quit “must be real.” *Ferguson v. Dep’t of Employment Servs.*, 311 Minn. 34, 44 n.5, 247 N.W.2d 895, 900 n.5 (1976). Because a “potentially hostile atmosphere” is not a current or real circumstance, it does not constitute a good reason for quitting attributable to his employer.

**Affirmed.**