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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1702**

Beth Sarna,
Relator,

vs.

Cities Home Rental,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed June 20, 2011
Affirmed
Worke, Judge**

Department of Employment and Economic Development
File No. 25454823-3

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Cities Home Rental, Minneapolis, Minnesota (respondent employer)

Lee B. Nelson, Christina Altavilla, Minnesota Department of Employment and Economic
Development (for respondent department)

Considered and decided by Worke, Presiding Judge; Peterson, Judge; and Willis,
Judge.*

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

UNPUBLISHED OPINION

WORKE, Judge

Relator challenges the decision of an unemployment-law judge (ULJ) that she is ineligible for unemployment benefits, arguing that she had good reason to quit when the employer mischaracterized her as an independent contractor. We affirm.

DECISION

The ULJ decided that relator Beth Sarna quit her administrative-assistant position without a good reason caused by respondent employer Cities Home Rental and was ineligible for unemployment benefits. 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) (2010).

An employee who quits employment is ineligible to receive unemployment benefits unless a statutory exception applies. Minn. Stat. § 268.095, subd. 1 (2010). “[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.” *Id.*, subd. 3(a) (2010). If the reason cited is based on adverse working conditions, the employee must complain to the employer and give the employer a reasonable opportunity to correct the situation before quitting. *Id.*, subd. 3(c) (2010). The determination that an employee quit without good

reason caused by the employer is a legal conclusion, which we review de novo. *Nichols v. Reliant Eng'g & Mfg., Inc.*, 720 N.W.2d 590, 594 (Minn. App. 2006).

Relator cited several reasons for quitting her employment, including: she was mischaracterized as an independent contractor, which resulted in her not being paid overtime and affected her taxes; she was not paid on time; she was not paid for all of the hours that she worked; she did not receive proper breaks; and she worked in a hostile environment because she received several angry phone calls a day. The ULJ determined that none of these reasons would cause an average, reasonable employee to quit. We agree.

Relator did not have an issue with her classification until *after* she quit. Relator quit on June 2 and discovered on June 3, after she talked with someone from respondent Department of Employment and Economic Development (DEED), that she may be an employee rather than an independent contractor. Moreover, the ULJ asked relator during the hearing if the classification issue caused her to quit and she stated that she did not quit because of her classification. Further, relator fails to explain how this claimed misclassification adversely affected her. Relator claimed that the misclassification affected her taxes and overtime; but, as the ULJ found, relator would be responsible for taxes regardless and overtime was not contemplated when she was hired.

Similarly, relator's other reasons for quitting her employment are meritless. First, relator admitted that she failed to complain about these issues. *See* Minn. Stat. § 268.095, subd. 3(c) (stating that the employee must complain and give the employer a reasonable opportunity to correct the situation before quitting). Second, the concerns that relator did

voice regarding her pay were promptly remedied. Relator was unable to immediately cash one check that was inadvertently unsigned, and the mistake was corrected as soon as relator notified her employer. The same is true regarding her claim that she was not paid for all of the hours that she worked: relator received one check that failed to reflect eight hours of work, relator told her employer, and the eight hours were included in relator's next check. Third, relator claims that she worked in a hostile environment because she received several angry phone calls a day, but it was her job to answer phone calls. Relator had to be aware that at some point she would have to deal with angry customers. Fourth, the ULJ determined that relator exaggerated her claims and deemed her to be not credible, and this credibility determination is "the exclusive province of the ULJ and will not be disturbed on appeal." *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 345 (Minn. App. 2006). Finally, it appears that relator was just unhappy with her employment, but this is not a good reason to quit her employment caused by her employer. *See Foy v. J.E.K. Indus.*, 352 N.W.2d 123, 125 (Minn. App. 1984) (stating that dissatisfaction with employer does not provide a good reason to quit attributable to the employer), *review denied* (Minn. Nov. 8, 1984).

Affirmed.