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**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1870**

Margaret Lichy,
Relator,

vs.

CentraCare Clinic,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed August 15, 2011
Affirmed
Wright, Judge**

Minnesota Department of Employment and Economic Development
File No. 25076732-3

Margaret Lichy, St. Cloud, Minnesota (pro se relator)

Paul R. Harris, CentraCare Clinic, St. Cloud, Minnesota (for respondent CentraCare Clinic)

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

Considered and decided by Wright, Presiding Judge; Connolly, Judge; and Larkin,
Judge.

UNPUBLISHED OPINION

WRIGHT, Judge

In this certiorari appeal, relator challenges the unemployment law judge's (ULJ) determination that relator is ineligible to receive unemployment benefits because she quit her employment without a good reason attributable to her employer and without a medical necessity to quit. Relator argues that she was unfairly targeted and harassed by a supervisor and suffered from depression and anxiety because of the resulting working conditions. We affirm.

FACTS

Relator Margaret Lichy worked for CentraCare Clinic (CentraCare) from June 1994 to April 2010. Before she resigned from her employment, Lichy was a clinic-services assistant at a CentraCare medical clinic.

In the months preceding her resignation, Lichy received several reprimands and warnings from her supervisors regarding her conduct. On one occasion, the site coordinator, Julie Tiemann, observed Lichy reading a newspaper while on duty at the reception desk. Lichy's supervisor asked Lichy to refrain from personal reading while working because it is against CentraCare's employment policy. In November 2009, after Lichy asked another employee about Tiemann's personal life, Lichy received a verbal warning from her supervisor and Tiemann to refrain from discussing personal matters or gossiping at work. Tiemann warned Lichy that she would receive a written warning if she continued to gossip at work. In February 2010, Lichy received a written warning regarding gossiping in the workplace after two employees independently complained to

Tiemann that Lichy repeated comments that they each made about the other. Tiemann issued a written warning to Lichy because this was Lichy's second warning for gossiping and Tiemann felt that Lichy's actions created an uncomfortable, hostile work environment. Lichy declined to sign the warning because she felt it was unwarranted.

Lichy informed human resources that she felt targeted by Tiemann, and she was advised to speak with Tiemann's supervisor, the site administrator. Lichy asked the site administrator to remove the written warning from her personnel file because the warning was unfair and she had not gossiped at work. Lichy also informed him that she expected him to reject her request because he and Tiemann were personal friends. The site administrator advised Lichy that the warnings she had received resulted from her gossiping, and he refused to remove the written warning. Human resources and management personnel determined that Lichy was not being unfairly targeted.

Lichy subsequently sought a medical leave because she was experiencing depression and anxiety, conditions that she had experienced for approximately 20 years and for which she took medication. When she was unable to obtain an appointment with her regular CentraCare physician to secure the necessary approval of the medical leave, Lichy sent a note to her physician's nurse, requesting that the nurse arrange for her to see the physician. Lichy's note inquired "if this was your dad or your daughter, wouldn't you want to help them?" Lichy's physician reported the note to human resources because she found the note to be unprofessional and threatening. Lichy's supervisor told Lichy that her behavior was inappropriate.

Lichy consulted with an outside physician, who advised her that, because of her anxiety and depression, she may require occasional future absences from her employment. CentraCare approved Lichy's requested two-week medical leave of absence. But before Lichy's medical leave began, Lichy submitted her resignation because she was upset by the warnings that she had received. Her supervisors and human resources personnel encouraged her to consider it further and to make a final resignation decision after returning from her medical leave. Lichy agreed to do so. But at the end of her medical leave, she resigned before returning to work because of the anxiety, depression, and stress that she experienced at work. Human resources offered to investigate a possible transfer to another department, but Lichy decided to resign.

Lichy subsequently applied for unemployment benefits. A Minnesota Department of Employment and Economic Development adjudicator determined that Lichy quit her employment without a good reason caused by her employer and, therefore, she is ineligible to receive unemployment benefits. Lichy appealed. After holding a telephonic hearing, the ULJ determined that Lichy quit her employment without a good reason caused by her employer or medical necessity and, therefore, is ineligible to receive unemployment benefits. Lichy sought reconsideration and admission of additional evidence, submitting copies of her medical records and correspondence documenting her requests for her records from her counselor. The ULJ declined to order an additional evidentiary hearing because she determined that the medical records and correspondence would not have changed the outcome of the decision. The ULJ affirmed her earlier decision, and this certiorari appeal followed.

DECISION

When reviewing the decision of a ULJ, we may affirm the decision, remand the case for further proceedings, or reverse or modify the decision if the substantial rights of the relator have been prejudiced because the conclusion, decision, findings, or inferences are “(1) in violation of constitutional provisions; (2) in excess of the statutory authority or jurisdiction of the department; (3) made upon unlawful procedure; (4) affected by other error of law; (5) unsupported by substantial evidence in view of the entire record as submitted; or (6) arbitrary or capricious.” Minn. Stat. § 268.105, subd. 7(d) (2010).

A ULJ’s factual findings are reviewed in the light most favorable to the decision. *Schmidgall v. FilmTec Corp.*, 644 N.W.2d 801, 804 (Minn. 2002). They will not be disturbed on appeal if there is evidence that substantially tends to sustain those findings. *Skarhus v. Davanni’s Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). Whether the ULJ’s findings establish that the applicant falls within a statutory exception to ineligibility presents a question of law, which we review de novo. *Nichols v. Reliant Eng’g & Mfg.*, 720 N.W.2d 590, 594-95 (Minn. 2006).

It is undisputed that Lichy quit her employment at CentraCare. A person who quits her employment generally is ineligible to receive unemployment benefits, but there are several statutory exceptions to this rule. Minn. Stat. § 268.095, subd. 1 (2010). The ULJ considered two of these exceptions: an applicant who quits because of good reason caused by her employer, *id.*, subd. 1(1), and an applicant who quits because the applicant’s serious illness or injury made it medically necessary to quit, *id.*, subd. 1(7)(i).

The ULJ concluded that, because neither exception is satisfied, Lichy is ineligible to receive employment benefits. We address each of these exceptions in turn.

A.

An employee who quits may be eligible for unemployment benefits if she “quit the employment because of a good reason caused by the employer.” *Id.*, subd. 1(1). A good reason caused by the employer is one “(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) (2010). This exception applies only if the employee complains to the employer about the adverse condition and affords the employer an opportunity to cure the condition. *Id.*, subd. 3(c) (2010).

Lichy contends that Tiemann unfairly targeted and harassed her by issuing unwarranted warnings. Harassment may constitute a good reason to quit employment if the employer has notice and an opportunity to correct the harassing behavior. *Nichols*, 720 N.W.2d at 595. But an employee does not have a good reason to quit caused by the employer when there is merely discord between the employee and a supervisor or when the employee is “simply frustrated or dissatisfied with his [or her] working conditions.” *Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 14 (Minn. App. 1986); accord *Bongiovanni v. Vanlor Invs.*, 370 N.W.2d 697, 699 (Minn. App. 1985) (concluding that alleged harassment was properly viewed as personality conflict). A good reason caused by the employer is one that is “real, not imaginary, substantial not trifling, and reasonable, not

whimsical.” *Haskins v. Choice Auto Rental, Inc.*, 558 N.W.2d 507, 511 (Minn. App. 1997) (quotation omitted).

The ULJ rejected Lichy’s allegation that Tiemann unfairly targeted or harassed her, determining that Lichy’s employer had the right to warn Lichy that her conduct was considered gossip and was prohibited in the workplace. Our careful review of the record identifies ample support for this determination. The undisputed testimony establishes that Lichy discussed other employees’ personal matters at work and exhibited conduct that made others uncomfortable, resulting in complaints to management by several different employees. The warnings that Lichy received were reasonably targeted to address conduct that the employer felt was harmful to a productive working environment. There is no evidence that the warnings were delivered in an abusive or hostile manner or that Tiemann treated Lichy differently from other employees who exhibited similar behaviors. Indeed, the evidence establishes that human resources and management personnel evaluated Lichy’s complaints and concluded that Tiemann was not targeting Lichy unfairly.

Because Tiemann did not unfairly target Lichy or create a hostile work environment that would compel a reasonable employee “to quit and become unemployed rather than remaining in the employment,” the ULJ properly concluded that Lichy did not quit her employment for a good reason caused by her employer. *See* Minn. Stat. § 268.095, subd. 3(a).

B.

An employee may be eligible for unemployment benefits if she quits because of a “serious illness or injury [that] made it medically necessary that the [employee] quit.” *Id.*, subd. 1(7)(i). “This exception only applies if the [employee] informs the employer of the medical problem and requests accommodation and no reasonable accommodation is made available.” *Id.*

The ULJ determined that Lichy does not fall within this exception. We agree. Although it is undisputed that Lichy resigned because she experienced depression and anxiety that she attributed to her employment and that Lichy informed her employer of her medical conditions when she requested medical leave, the other requirements of Minn. Stat. § 268.095, subd. 1(7)(i), are not satisfied.

Lichy did not present any evidence that her anxiety disorder and depression made it medically necessary for her to quit. To the contrary, the evidence establishes that Lichy’s physician advised her that she could continue to work but she may require occasional brief leaves of absence. And Lichy’s testimony indicates that she suffered from both conditions for the entirety of her employment with CentraCare.

Moreover, although Lichy requested the two-week medical leave to address her anxiety and depression, she did not request a longer leave or any other accommodation from her employer. And the record demonstrates that her employer accommodated her medical-leave request and would have made additional reasonable accommodations if Lichy had requested them. Because Lichy’s employer reasonably accommodated the

only request that Lichy made, the ULJ's conclusion that the medical-necessity exception does not apply is not erroneous. *See id.*

In sum, the evidence sustains the ULJ's factual findings, and the ULJ correctly applied the law. We, therefore, affirm the ULJ's determination that Lichy is ineligible to receive unemployment benefits because she quit her employment and she does not satisfy a statutory exception to ineligibility.

Affirmed.