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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-2141**

Michelle Yang,
Relator,

vs.

Wells Fargo Bank N.A.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed August 22, 2011
Affirmed
Ross, Judge**

Department of Employment and Economic Development
File No. 25928787-3

Michelle Y. Yang, Hugo, Minnesota (pro se relator)

Wells Fargo Bank N.A., Garden City, New York (respondent employer)

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

Considered and decided by Ross, Presiding Judge; Stoneburner, Judge; and
Stauber, Judge.

UNPUBLISHED OPINION

ROSS, Judge

Michelle Yang appeals from an unemployment law judge's decision that she is ineligible to receive unemployment benefits because she quit her job as a loan processor without a good reason caused by Wells Fargo Bank. She argues that her employer's transferring her to a new office and assigning her to process difficult loans with no additional training were good reasons for her to quit. Because an employee's frustration arising from her employer's transfer decision does not constitute a good reason to quit caused by the employer, we affirm.

FACTS

Michelle Yang began working as a loan document specialist at Wells Fargo Bank in July 2008. She processed standard home loans until Wells Fargo transferred her to a new office in May 2010 to process bond and group-home loans. Unsatisfied with her job performance, on August 11, 2010, Wells Fargo placed Yang on a performance-improvement plan. Under the plan, Yang had 30 days to resolve deficiencies and was not eligible for bonuses. Yang told supervisor Lisa Johnson that she did not want to continue processing bond and group-home loans and Johnson recognized that Wells Fargo had not given Yang additional training for processing these loans.

Six days into the performance-improvement plan, Yang formally requested to transfer. Johnson did not have time to schedule a meeting with Yang. The next day, Yang called in sick for two days, and on the second day of her sick leave, she applied to the Minnesota Department of Employment and Economic Development (DEED) for

unemployment benefits, indicating that she had been discharged two days earlier for poor work performance. Yang did not go to work or call her supervisor. Four days after she applied for unemployment benefits, several of Yang's coworkers told her of rumors that she had been fired. Yang called a Wells Fargo human resources manager, who told her that she had *not* been fired. Still Yang never returned to work.

Johnson telephoned Yang but Yang's number was not in service. Johnson sent Yang a letter informing her that Wells Fargo had terminated her employment due to job abandonment. The letter instructed Yang to contact Johnson if she believed there was "an extenuating circumstance that should be taken into consideration." Yang received the letter but did not respond.

DEED deemed Yang ineligible for benefits. She appealed, claiming that she was forced to quit because she had been placed on the performance-improvement plan. An unemployment law judge (ULJ) found that Yang quit her employment and not for a good reason caused by Wells Fargo. Yang requested reconsideration, seeking an additional evidentiary hearing to present new evidence. The ULJ affirmed. Yang appeals by writ of certiorari.

DECISION

This court may remand, reverse, or modify a ULJ's decision if the relator's substantial rights were prejudiced by fact findings that are unsupported by substantial evidence or by a decision that is affected by an error of law, made upon unlawful procedure, or arbitrary and capricious. Minn. Stat. § 268.105, subd. 7(d)(3)–(6) (2010). We review findings of fact in the light most favorable to the ULJ's decision and give

deference to the ULJ's credibility determinations. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006).

I

Yang argues that she had a good reason to quit caused by Wells Fargo. An applicant who quits her employment generally is ineligible for unemployment benefits. Minn. Stat. § 268.095, subd. 1 (2010). But an exception to ineligibility applies when “the applicant quit the employment because of a good reason caused by the employer.” *Id.*, subd. 1(1). A good reason to quit caused by the employer occurs when an employer's action is adverse to the employee and “would compel an average, reasonable worker to quit and become unemployed.” *Id.*, subd. 3(a) (2010). The ULJ determined that Yang's work-related frustration from inadequate training was not good reason to quit caused by Wells Fargo. We review that determination de novo. *Munro Holding, LLC v. Cook*, 695 N.W.2d 379, 384 (Minn. App. 2005).

Yang claims that Wells Fargo gave her good reason to quit by moving her to a new office where it required her to process complicated loans without training, which led to her placement on the performance-improvement plan. An employee's frustration or dissatisfaction with her job or working conditions does not constitute a good reason to quit caused by the employer. *Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 14 (Minn. App. 1986). Yang testified, “I don't understand how to do these loans and all I do is sit there and get hundreds [of] emails and phone calls. . . . It's frustrating.” This testimony reflecting job frustration supports the ULJ's reasoning. And receiving less training than desired would not compel an average, reasonable worker to quit and become

unemployed. *See Werner v. Med. Prof'ls LLC*, 782 N.W.2d 840, 843 (Minn. App. 2010) (“To compel is to cause or bring about by force, threats, or overwhelming pressure.”) (quotation omitted), *review denied* (Minn. Aug. 10, 2010). Yang adds that she believed Wells Fargo would soon discharge her. But an employee’s fear of potential termination also does not constitute good reason to quit. *Erb v. Comm’r of Econ. Sec.*, 601 N.W.2d 716, 719 (Minn. App. 1999).

We recognize that in some cases a pay decrease may influence a reasonable employee’s decision whether to remain employed and that Yang faced a loss of bonus pay during the performance-improvement plan. But the plan was, by design, both temporary and remedial. And Yang has not provided any caselaw that would lead us to hold that the temporary bonus reduction constitutes a good reason to quit.

II

Yang argues that she should have been given an additional evidentiary hearing on reconsideration because she did not have a chance to fully present her case at the original hearing due to her unfamiliarity with the evidentiary-hearing process. A ULJ must order an additional evidentiary hearing if a party shows that evidence not submitted at the original hearing would likely change the outcome of the case and there was good cause for not previously submitting that evidence. Minn. Stat. § 268.105 subd. 2(c) (2010). We defer to the ULJ’s decision to deny an evidentiary hearing and will reverse only for an abuse of discretion. *Ywsyf v. Teleplan Wireless Servs., Inc.*, 726 N.W.2d 525, 533 (Minn. App. 2007).

Yang sought a second hearing to introduce evidence about her bonus amounts, elicit additional testimony from Johnson, and call a new witness. The ULJ found that Yang did not show good cause for failing to submit this evidence at the original hearing. He also found that Yang provided no new evidence or arguments that would change his eligibility decision. The ULJ's reasoning does not reflect an abuse of discretion.

Yang also argues that the ULJ erred by failing to assist her in fully developing the record. The argument fails. The ULJ must "ensure that relevant facts are clearly and fully developed" and assist unrepresented parties in presenting evidence. Minn. R. 3310.2921 (2009). The transcript of the hearing reflects that the ULJ gave Yang several opportunities to explain her reasons for quitting. She indicated that she had nothing further to say. The record also demonstrates that the ULJ indeed assisted Yang. In Yang's initial closing argument, she began to introduce new facts into the record. The ULJ resumed questioning to illuminate those facts over an objection by Wells Fargo. The ULJ defended his assistance and lenient treatment of Yang, emphasizing, "My job is as a fact finder and Ms. Yang may not be completely aware of what she should be testifying . . . to in this hearing. I'm going to give her the benefit of the doubt and take some [additional] testimony." He again gave Yang an opportunity to speak at the close of the questioning. The ULJ afforded Yang a fair hearing.

Affirmed.