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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-1011**

Joanne Heller,
Relator,

vs.

The Group Agency, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed March 19, 2012
Affirmed
Crippen, Judge***

Department of Employment and Economic Development
File No. 26633557-3

Joanne M. Heller, White Bear Lake, Minnesota (pro se relator)

The Group Agency, St. Paul, Minnesota (respondent)

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

Considered and decided by Klaphake, Presiding Judge; Stoneburner, Judge; and
Crippen, Judge.

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

UNPUBLISHED OPINION

CRIPPEN, Judge

Relator Joanne Heller challenges the unemployment-law judge's (ULJ) decision that she is ineligible to receive unemployment benefits, arguing that she had good reason to quit based on adverse interactions with her coworker and unfair treatment by her supervisor. Because substantial evidence supports the ULJ's finding that relator quit because of a personality conflict with her coworker that was not so egregious as to give her reason to quit, and because relator received a fair hearing, we affirm.

FACTS

Relator worked as a licensed customer service representative for respondent The Group Agency for about three months until she quit on October 28, 2010. Relator's supervisor trained her on the agency's procedures, but relator felt that this was done in a manner that was critical of her. Relator also had a personality conflict with her coworker.

On Friday, October 1, relator asked her coworker a question about a file and, in response, the coworker told her to "read the file." When relator persisted in asking for help, her coworker grabbed the file, said, "d-mn you can't do a d-mn thing," and walked away. The coworker apologized later that day but essentially told relator not to report the incident to their supervisor. Relator nonetheless explained the incident to her supervisor and the supervisor talked to the coworker about it.

On Saturday, October 23, relator worked for three hours at the office, but her supervisor emailed her on the following Monday to advise her that she did not have permission to go to the office on Saturdays and to henceforth work only during regular

business hours. In the following week, relator asked for permission to take half a day of vacation, and she also suggested that she could apply the extra hours she had worked on the previous Saturday to the time she wanted to take off. Her supervisor refused because relator had not yet earned any vacation time and it would be unfair to the other employees.

On the morning of Thursday, October 28, relator's coworker told relator not to talk to the supervisor about her again and asked her, "Why [don't] you just quit[?]" Relator then went to speak to her supervisor and asked her, "do you want me to quit today or tomorrow[?]" She complained of her coworker's continuing rudeness and told her supervisor that she could not work in that environment. Her supervisor told her that if she was quitting, she needed to write and sign a letter of resignation. Relator initially refused, but, after a heated discussion with the supervisor, relator did so reluctantly.

Relator applied to the Minnesota Department of Employment and Economic Development for unemployment benefits, reporting that she had been discharged from employment, and she began receiving benefits on that basis. The employer disputed her claim that she had been discharged and provided a copy of her letter of resignation to the department, which then issued a determination of ineligibility to relator in January 2011. Relator appealed and, after a hearing, the ULJ ruled that relator was ineligible for unemployment benefits because she quit without good reason caused by the employer. Relator requested reconsideration and the ULJ affirmed.

DECISION

This court will reverse or modify a ULJ's decision if it represents an error of law or is unsupported by substantial evidence. Minn. Stat. § 268.105, subd. 7(d)(4), (5) (2010). We will defer to the ULJ's credibility determinations and will not disturb findings that are supported by substantial evidence. *Nichols v. Reliant Eng'g & Mfg., Inc.*, 720 N.W.2d 590, 594 (Minn. App. 2006). We review questions of law de novo. *Ywsfw v. Teleplan Wireless Servs., Inc.*, 726 N.W.2d 525, 529 (Minn. App. 2007).

One who quits employment is ineligible for unemployment benefits unless an exception applies. Minn. Stat. § 268.095, subd. 1 (2010). One such exception is when the employee quits for good reason caused by the employer. *Id.*, subd. 1(1). A "good reason" 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).

Relator argues that she is eligible for benefits because she quit her employment for good reason caused by her employer. "The determination that an employee quit without good reason attributable to the employer is a legal conclusion, but the conclusion must be based on findings that have the requisite evidentiary support." *Nichols*, 720 N.W.2d at 594.

The ULJ found, on conflicting testimony, that relator quit work "primarily because of the conflict with" her coworker. The ULJ correctly relied on the appellate holding that a personality conflict with a coworker or mere dissatisfaction with a supervisor is not

good reason to quit caused by the employer. *See Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 14 (Minn. App. 1986) (holding that good cause to quit does not include “irreconcilable differences with others at work” or an employee’s frustration or dissatisfaction with working conditions).

Relator felt that her supervisor criticized her when explaining the agency procedures to her and unfairly denied her request to take half a day off work. As the ULJ held, mere dissatisfaction with a supervisor is not a good reason caused by the employer for quitting employment. *See Trego v. Hennepin Cnty. Family Day Care Ass’n*, 409 N.W.2d 23, 26 (Minn. App. 1987) (holding that employee’s dissatisfaction with interim director did not provide good cause to quit).

The ULJ further found that relator’s working conditions were not so egregious as to cause the average reasonable worker to quit employment and become unemployed. *Cf. Nichols*, 720 N.W.2d at 595-96 (holding that harassment by coworker, including use of derogatory obscenities and operation of a forklift dangerously near employee, provided her with good reason to quit caused by employer, who took no effective steps to stop the coworker). Substantial evidence in the record supports the ULJ’s findings and his ruling is correct as a matter of law.

Relator contends that the hearing was unfair because she could not question the employer’s three witnesses, including her coworker. At the start of the hearing, the ULJ told her she had a right to have the hearing rescheduled to obtain a subpoena for witnesses. The employer’s three witnesses were telephonically present on the first day of the hearing, and relator’s supervisor expected them to testify that relator had quit

employment and was not discharged, but time ran out before they could testify that day. At the continued hearing, relator's supervisor informed the ULJ that, because relator testified that she quit employment and was no longer asserting that she had been discharged, it was no longer necessary for her witnesses to testify on that point and she would not be calling them. Relator did not tell the ULJ that she had wanted to question those witnesses as well or ask him to reschedule the hearing to subpoena them, as she had been told she had the right to do. *See* Minn. Stat. § 268.105, subd. 1(b) (2010). We first observe that we cannot address this claim of unfairness when she is raising the issue for the first time on appeal. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). In any event, relator has not attempted to show that the lack of testimony by these witnesses prejudiced her substantial rights on appeal.

Finally, relator raises additional arguments on mistakes in the record, her supervisor's actions after relator announced her choice to quit, and other details of the hearing process, but none of these arguments implicates the ultimate findings of the ULJ on the absence of good cause for relator's choice to quit.

The ULJ did not err by concluding that relator quit her employment without good reason caused by the employer.

Affirmed.