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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-1036**

Gregory Anderson,
Relator,

vs.

Range Manufacturing Co. (Corp.),
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed March 26, 2012
Affirmed
Peterson, Judge**

Department of Employment and Economic Development
File No. 27284487-3

Gregory D. Anderson, Brainerd, Minnesota (pro se relator)

Range Manufacturing Co., Crosby, Minnesota (respondent employer)

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

Considered and decided by Peterson, Presiding Judge; Larkin, Judge; and Crippen,
Judge.*

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

UNPUBLISHED OPINION

PETERSON, Judge

This certiorari appeal is from a decision of an unemployment-law judge that relator is ineligible to receive unemployment benefits because he quit his employment and the statutory exception from ineligibility for an employee who quit because a serious illness or injury made it medically necessary to quit does not apply to relator. We affirm.

FACTS

Relator Gregory Anderson was employed by Range Manufacturing Co. for approximately eight years. Because relator did not have a car, Rick Ferrari, the owner of Range Manufacturing, would pick up relator and take him to work in the morning. On a Tuesday evening in October 2010,¹ relator left a message on Ferrari's voice mail "indicating that he would not be in on Wednesday and that he got in some kind of trouble with the law." Ferrari did not listen to his voice mail before going to pick up relator on Wednesday morning, and when he arrived at relator's home, relator was not there. Ferrari checked his voice mail, heard relator's message, and called relator back and left a message telling relator to give him a call sometime during the day. Relator did not call Ferrari, and when Ferrari went to pick up relator on Thursday morning, relator was not home. Ferrari did not receive a call from relator on Thursday, and, on Friday, Ferrari hired someone to replace relator.

¹ The testimony is inconsistent regarding whether the particular Tuesday was October 18, as relator contends, or October 25, as the employer contends. The unemployment-law judge found that the pertinent events occurred during the later week and, on reconsideration, found this fact "not material to the decision."

Ferrari did not have any contact with relator until several weeks later when he went to check on one of his houses, which relator was house-sitting. Ferrari and relator never discussed the fact that relator had left his employment at Range Manufacturing, and relator did not attempt to go back to work. In early February 2011, relator was admitted to a hospital for mental illness. About a week later, he was temporarily committed until late February, when he was released from the hospital without medical restrictions.

Relator applied for unemployment benefits, and respondent Minnesota Department of Employment and Economic Development (DEED) determined that he was ineligible. Relator sought review by an unemployment-law judge (ULJ), and, following a hearing, the ULJ concluded that relator quit his employment at Range Manufacturing because he “stopped showing up for work and did not contact the employer.” The ULJ further concluded that because relator did not inform the employer about his mental illness or request an accommodation for his illness, relator was not eligible for unemployment benefits under the statutory exception from ineligibility for an employee who quit employment because of a serious illness, even though it appeared that relator had a serious illness. The ULJ affirmed on reconsideration, and this certiorari appeal followed.

D E C I S I O N

This court may remand, reverse, or modify a decision of a ULJ if substantial rights of the applicant were prejudiced because the ULJ’s findings, conclusions, or decisions are affected by an error of law or are unsupported by substantial evidence. Minn. Stat. § 268.105, subd. 7(d) (2010). This court reviews the ULJ’s factual findings in the light

most favorable to the decision and will not disturb them when they are sustained by substantial evidence. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). This court reviews de novo a ULJ's determination that an applicant is ineligible to receive benefits. *Sykes v. N.W. Airlines*, 789 N.W.2d 253, 255 (Minn. App. 2010).

A person who quits employment is ineligible for unemployment benefits unless a statutory exception applies. Minn. Stat. § 268.095, subd. 1 (2010). One exception applies when “the applicant quit the employment . . . because the applicant's serious illness or injury made it medically necessary that the applicant quit.” *Id.*, subd. 1(7). But “[t]his exception only applies if the applicant informs the employer of the medical problem and requests accommodation and no reasonable accommodation is made available.” *Id.*

Relator does not dispute that he quit his employment. And there is evidence that relator has a serious illness. But there is no evidence that relator informed the employer of his medical problem and requested an accommodation. Therefore, relator does not satisfy the statutory elements of the medical-necessity exception from ineligibility, and the ULJ did not err in concluding that relator is not eligible for unemployment benefits. *See Madsen v. Adam Corp.*, 647 N.W.2d 35, 38-39 (Minn. App. 2002) (concluding that medical-necessity exception applied when applicant notified employer of her medical condition and requested transfer to a position that would not aggravate her symptoms).

Relator argues that he is eligible to receive unemployment benefits under Minn. Stat. § 268.095, subd. 6(b)(1) (2010), which states that “conduct that was a consequence of the applicant's mental illness or impairment” is not within the statutory definition of

“employment misconduct.” That statute, however, must be read together with Minn. Stat. § 268.095, subd. 4(1) (2010), which states the general rule that an applicant who is discharged because of employment misconduct is ineligible for unemployment benefits. Subdivision 6(b)(1) creates an exception from the general rule that applies when the applicant is discharged for misconduct that is a consequence of the applicant’s mental illness. Under this exception, conduct that would otherwise be considered to be employment misconduct does not make the applicant ineligible for benefits when the conduct is a consequence of the applicant’s mental illness. This exception, however, does not apply to relator because relator was not discharged for misconduct; relator quit his employment.

Relator disputes a determination by DEED that he was ineligible to receive unemployment benefits because he was unable to work, contending that this determination was issued by DEED as a result of an application for benefits that relator made while committed. The ULJ in the case before us noted that “[o]n March 18, 2011 [relator] was found ineligible due to his medical condition. That decision has not been appealed.” Relator’s ability to work is not an issue in the case before us, and, if there was a claimed error in a previous determination, we cannot address the claim in this case. *See* Minn. Stat. § 268.105, subd. 7(a) (stating that review is linked to ULJ’s decision for which relator filed petition for writ of certiorari).

Finally, relator contends that he is entitled to benefits because of “undue hardship” and asks this court to award him \$250,000. But the unemployment-compensation statute provides that “[t]here is no equitable or common law denial or allowance of

unemployment benefits.” Minn. Stat. § 268.069, subd. 3 (2010). Because the statute does not permit an equitable allowance of unemployment benefits, this court has no authority to award relator benefits based on an undue hardship.

Affirmed.