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

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A11-120**

Trevor Rolfes,  
Relator,

vs.

Ind. School District #625,  
Respondent,

Department of Employment and Economic Development,  
Respondent.

**Filed August 29, 2011  
Affirmed  
Kalitowski, Judge**

Department of Employment and Economic Development  
File No. 26128405-3

Trevor Rolfes, Eagan, Minnesota (pro se relator)

Independent School District #625, c/o TALX UCM Services Inc., St. Louis, Missouri  
(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 Kalitowski, Presiding Judge; Wright, Judge; and  
Stauber, Judge.

## UNPUBLISHED OPINION

**KALITOWSKI**, Judge

In this certiorari appeal, relator Trevor Rolfes challenges the decision by the unemployment-law judge (ULJ) that he is ineligible for unemployment benefits because he quit his employment without good reason caused by his employer. We affirm.

### DECISION

In reviewing a ULJ's eligibility decision, this court may affirm or remand the ULJ's decision, or it may reverse or modify the decision if the relator's substantial rights have been prejudiced because the ULJ's findings or decision are affected by error of law or unsupported by substantial evidence in the record. Minn. Stat. § 268.105, subd. 7(d) (2010). "[The court] view[s] the ULJ's factual findings in the light most favorable to the decision." *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). But statutory interpretation is a question of law that the court reviews de novo. *Abdi v. Dep't of Emp't & Econ. Dev.*, 749 N.W.2d 812, 815 (Minn. App. 2008).

A person who voluntarily quits employment is ineligible to receive unemployment benefits unless the applicant quit employment for a good reason caused by the employer. Minn. Stat. § 268.095, subd. 1(1) (2010). An applicant quits his employment "when the decision to end the employment was, at the time the employment ended, the employee's." *Id.*, subd. 2(a) (2010). And "[a]n employee who has been notified that the employee will be discharged in the future, who chooses to end the employment while employment in any capacity is still available, is considered to have quit the employment." *Id.*, subd. 2(b) (2010). Notification of a discharge in the future is not considered a good reason caused

by the employer, nor is quitting for a reason which occurs because of the applicant's employment misconduct. *Id.*, subd. 3(d), (e) (2010).

Here, relator was an automotive technology teacher in the St. Paul school district from August 2005 until September 2010. Relator's employment ended after the school discovered that relator had received e-mail messages on his school computer from automotive supply representatives that violated the school's racial-discrimination and sexual-harassment policies and that relator had forwarded those messages to his colleagues. Relator agreed that some of the messages were inappropriate. He was advised by his union representative and a union attorney that he would likely be discharged for the policy violations. The district agreed that if relator resigned, rather than going through the discharge process, he could use his sick time and could look for other employment before the district sent a report to the Board of Teaching.

Relator does not dispute the ULJ's conclusion that he quit his employment several weeks before he was likely to be discharged. *See* Minn. Stat. § 268.095, subd. 2(b) (stating that an employee who chooses to end employment while employment is still available, even if discharge is expected, has quit); *see also Seacrist v. City of Cottage Grove*, 344 N.W.2d 889, 891-92 (Minn. App. 1984) (holding that applicant who decided to resign to protect employment record by avoiding disciplinary action and discharge voluntarily quit).

Consequently, relator could only be eligible for unemployment benefits if he quit for a good reason caused by his employer. *See* Minn. Stat. § 268.095, subd. 1(1) (2010) (stating that an applicant who quits his employment is ineligible for benefits unless he

quits for a good reason caused by his employer). But receiving notification of discharge is specifically excluded from the statutory description of a good reason caused by the employer. Minn. Stat. § 268.095, subd. 3(e). And quitting to protect one's employment record is not a good reason caused by the employer. *See Seacrist*, 344 N.W.2d at 892; *Ramirez v. Metro Waste Control Comm'n*, 340 N.W.2d 355, 357-58 (Minn. App. 1983) (concluding that applicant who chose to resign before formal discharge decision was final to protect his work record quit his employment without good cause and was ineligible for benefits).

Moreover, even if relator had been formally discharged he would not be eligible for unemployment benefits. *See* Minn. Stat. § 268.095, subd. 4(1) (2010) (stating that discharge for misconduct is a ground of ineligibility); Minn. Stat. § 268.095, subd. 6(a) (2010) (defining employment misconduct to include “any intentional, negligent, or indifferent conduct, on the job or off the job that displays clearly . . . a serious violation of the standards of behavior the employer has the right to reasonably expect of the employee”); *Schmidgall v. FilmTec Corp.*, 644 N.W.2d 801, 804 (Minn. 2002) (stating that refusing to abide by an employer's reasonable policies generally constitutes disqualifying employment misconduct).

Finally, relator argues that he quit in part because his employer said it would not contest his application for benefits. But an employer's agreement not to contest unemployment benefits does not affect an employee's eligibility for benefits. “Minnesota law makes clear that whether the employer pays for unemployment insurance, or whether the employer challenges the employee's petition, has no bearing on whether or not the

benefits are paid. . . .” *Rasidescu v. Comm’r of Econ. Sec.*, 644 N.W.2d 504, 506 (Minn. App. 2002), *review denied* (Minn. July 16, 2002).

**Affirmed.**