STATE OF MINNESOTA
IN COURT OF APPEALS
A11-1413

Leanda Rae Muhonen,
Relator,

vs.

New Horizon Child Care, Inc.,
Respondent,

Department of Employment
and Economic Development,
Respondent.

Filed April 16, 2012
Affirmed
Randall, Judge[*]

Department of Employment and Economic Development
File No. 27362901-3

Peter B. Knapp, Bhupesh Pattni, Certified Student Attorney, William Mitchell Law Clinic, St. Paul, Minnesota (for relator)

New Horizon Child Care, Inc., St. Louis, Missouri (respondent)

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

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

Considered and decided by Kalitowski, Presiding Judge; Schellhas, Judge; and Randall, Judge.

U N P U B L I S H E D O P I N I O N

RANDALL, Judge

Relator challenges the decision of the unemployment-law judge (ULJ) that she is ineligible to receive benefits because she quit her employment and does not qualify for the good-cause or medical-necessity exceptions. We affirm.

FACTS

In 2009, relator Leanda Muhonen began working for respondent New Horizon Child Care, Inc. in Chanhassen. She later transferred to the New Horizon site in Shorewood, where she worked under director Yelena Peterson and assistant director Nicole Rogers.

Relator worked as a lead teacher in the infants' room. The infants' room was divided by a half wall, which separated 9-to-16-month-old infants from younger infants. Relator and an aide were assigned to the older infants, and Miriam Overbee was assigned to the younger infants. Over the time that relator worked in Shorewood, the number of infants grew, and by January 2011, the infants' room held eight older infants and four younger infants.

As the number of infants increased, relator occasionally mentioned the need for more teachers in the infants' room. She also had occasional "meltdowns" in front of Peterson and Rogers. But she never told them she had post-traumatic stress disorder (PTSD), though she had reported her diagnosis to the Chanhassen New Horizon.

From January 17 to January 26, 2011, Overbee was on funeral leave. According to Peterson and Rogers, Overbee was replaced by either Rogers (a teacher) or a substitute teacher each day of her absence. On January 20, relator became frustrated with an infant named Mariana who cried frequently throughout the day. Overwhelmed, relator took the child to Rogers and said, "It's her or me." About two weeks later, relator left Peterson a note saying that she had PTSD, she could not handle Mariana's crying, and she was quitting effective immediately.

Relator applied to respondent Department of Employment and Economic Development for unemployment benefits, claiming that she quit her job due to back pain, her PTSD, and New Horizon's violation of regulatory staffing requirements. The ULJ disagreed, finding that relator did not quit due to medical necessity or for good cause and was therefore ineligible for unemployment benefits. Relator filed a request for reconsideration, asking the ULJ to subpoena the employment files of various New Horizon staff to determine whether their qualifications met regulatory staffing requirements. The ULJ affirmed on reconsideration, and this certiorari appeal follows.

D E C I S I O N

This court will reverse or modify a ULJ's decision if, among other reasons, it is based on an error of law or factual findings that are not supported by substantial evidence. *Skarhus v. Davanni's, Inc.*, 721 N.W.2d 340, 343 (Minn. App. 2006). This court views the ULJ's factual findings in the light most favorable to the decision, giving complete deference to the ULJ's credibility determinations. *Id.* at 344.

Good-Cause Exception

Relator argues that she is entitled to unemployment benefits because she quit her job due to New Horizon's violation of regulatory group-size limits and staffing requirements. One who voluntarily quits his or her job is ineligible for unemployment benefits, subject to ten statutory exceptions. Minn. Stat. § 268.095, subd. 1 (2010). One such exception applies if the applicant quit his or her employment "because of a 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). To be eligible for benefits, the applicant must have complained of the adverse conditions and given the employer an opportunity to correct them. *Id.*, subd. 3(c) (2010).

Relator first challenges the ULJ's determination that New Horizon did not violate regulatory group-size limits by holding twelve infants in a single room. A child care center may have no more than eight children in each "group" in the infant age category. Minn. R. 9503.0040, subp. 1 (2011). The infant age category is comprised of children between the ages of six weeks and 16 months. Minn. R. 9503.0005, subp. 2A. (2011). The regulations do not define the word "group." It is undisputed that the infants' room was divided by a half wall, which separated 9-to-16-month-old infants from younger infants to prevent the older infants from trampling the younger ones. One teacher was in charge of the younger infants, and relator and an aide were in charge of the older infants. The infants' room never held more than eight older infants and four younger infants.

Thus, there is substantial evidence that the infants' room contained two "groups" of infants, neither of which exceeded the eight-infant maximum.

Second, relator challenges the ULJ's legal determination that two teachers and an aide satisfy the staff-to-child ratio for the entire infants' room. For each "group" of infants, a child care center must have at least one staff member per four infants. Minn. R. 9503.0040, subp. 1. The first staff member necessary to meet this ratio must be a teacher, and the second staff member must have at least the qualifications of a child care aide. *Id.* subp. 2.D(1), (2) (2011). Thus, New Horizon was required to assign one teacher to the group of four younger infants and a teacher and a person with at least the qualifications of a child care aide to the group of eight older infants. The ULJ's legal interpretation of the staffing requirements is essentially correct.

Third, relator contends that the ULJ erroneously relied on Peterson's and Rogers's testimonies in determining that New Horizon complied with staffing requirements even though they could not remember which teachers worked each day of Overbee's absence. Peterson confidently testified that either Rogers (a teacher) or a substitute teacher worked with relator and a qualified teacher's aide each day of Overbee's absence. Rogers testified similarly, though somewhat confusingly. This staffing complies with state regulation, as described above. Although we agree with relator that Peterson's and Rogers's testimonies lacked precision, we must defer to the ULJ's credibility determinations, including its reliance on Peterson's and Rogers's testimonies. *See Skarhus*, 721 N.W.2d at 344. Substantial evidence therefore supports the ULJ's factual determination that New Horizon complied with the staffing requirements.

Finally, relator insists that the ULJ should have reviewed the employee files to determine the qualifications and work schedules of each substitute teacher and aide, as relator requested in her request for reconsideration. Relator sought information indicating that the substitute teachers and/or the aide were not qualified as such and that no substitute teachers were assigned to the infants' room, contrary to Peterson's and Rogers's testimonies. Relator's request amounts to a challenge to the ULJ's determination that Peterson and Rogers credibly testified regarding staffing composition and qualifications. Again, we must defer to that credibility determination. *See id.*

We admire relator's concern for the safety of infants—a particularly vulnerable population that demands adequate and attentive care. And we acknowledge that the evidence in this case was not overwhelmingly against relator. We nevertheless conclude that the law and substantial evidence support the ULJ's determination that relator does not meet the good-cause exception.

Medical-Necessity Exception

Relator also claims that she is entitled to unemployment benefits because she quit her employment due to her PTSD. An applicant is eligible for unemployment benefits if he or she quit employment "because the applicant's serious illness or injury made it medically necessary that the applicant quit" and "the applicant informs the employer of the medical problem and requests accommodation and no reasonable accommodation is made available." Minn. Stat. § 268.095, subd. 1(7).

Relator challenges the ULJ's factual finding that relator did not inform her employer of her PTSD. To meet the medical necessity exception, the applicant must

have notified the *employer*—defined as "any person that has had one or more employees during the current or the prior calendar year"—of the medical condition. Minn. Stat. §§ 268.035, subd. 14, .095, subd. 1(7) (2010). Nothing in the statute requires the applicant to notify his or her *supervisor*, as opposed to another manager or a former supervisor, of a medical condition. Although the parties dispute whether relator informed her Shorewood supervisors of her PTSD, they agree that she reported her PTSD to the Chanhassen New Horizon. The Shorewood and Chanhassen locations share a single employer: New Horizon. The ULJ therefore erred by concluding that relator had not informed her employer of her PTSD.

But the ULJ also found that relator did not meet the medical-necessity exception because she never requested an accommodation for her PTSD. Relator testified that the only "accommodation" she requested was that a fussy infant be removed from her care, but she made no mention of her PTSD in making this request. Indeed, Peterson and Rogers both testified that relator had never mentioned her PTSD to them before she quit. One could interpret relator's exasperated comment, "It's her or me," as a request for an accommodation by a woman with an apparent medical condition. But viewing the evidence in the light most favorable to the ULJ's decision, as we must, we conclude that substantial evidence supports the ULJ's determination that relator did not request an accommodation for her PTSD. We therefore affirm the ULJ's determination that relator is not eligible for unemployment benefits based on the medical-necessity exception.

Affirmed.