STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0617

Richard R. Reinhard,
Relator,

vs.

Federal Cartridge Co. (Corp.),
Respondent,

Department of Employment and Economic Development,
Respondent.

Filed January 21, 2014
Affirmed
Halbrooks, Judge

Department of Employment and Economic Development
File No. 30419602-4

LeAnne D. Miller, Sarah R. Jewell, Reichert Wenner, P.A., St. Cloud, Minnesota (for relator)

Federal Cartridge Co. (Corp.) c/o ADP-UCM/The Frick Co., St. Louis, Missouri (respondent)

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

Considered and decided by Halbrooks, Presiding Judge; Peterson, Judge; and Ross, Judge.

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

HALBROOKS, Judge

Relator challenges the decision of an unemployment-law judge (ULJ) that he is ineligible for unemployment benefits, arguing that (1) he quit due to a good reason caused by his employer and (2) the ULJ made the decision upon unlawful procedure by failing to subpoena witnesses and documents on relator's behalf. We affirm.

FACTS

Relator Richard R. Reinhard was employed as a mechanical adjuster by respondent Federal Cartridge Co., an ammunition manufacturer, from May 1995 to November 8, 2012. Throughout his career at Federal Cartridge, Reinhard disagreed with many of the company's actions and expressed concern regarding workplace safety, operational efficiency, and the company's ethics, equal-employment-opportunity practices, and regulatory compliance. Reinhard submitted four complaints to the Minnesota Department of Labor and Industry, asserting violations of the Occupational Safety and Health Administration (OSHA) regulations.

Reinhard made a habit of arriving to work early. On October 26, 2012, Reinhard's supervisor, P.K., advised him that company policy prohibits employees from entering the manufacturing plant more than 30 minutes prior to their scheduled shift. The following day, Reinhard arrived to work more than an hour before the start of his shift. During that time, and before he "clocked in," Reinhard decided to use a forklift to move some empty bins from the cafeteria to his work area. In the process, Reinhard ran the forklift into a workbench. Two employees heard a loud bang; one observed Reinhard get off the

forklift, and the other noticed that the workbench had been moved out of place and watched Reinhard pick up items that had fallen on the floor. Although company policy required employees to report work-related accidents, Reinhard did not report this incident.

On November 2, 2012, Reinhard was suspended indefinitely for (1) entering the manufacturing plant more than 30 minutes before his shift on October 27 and disregarding his supervisor's October 26 directive; (2) working before punching his timecard and before his scheduled shift; (3) inattentively operating a forklift and hitting the workbench; (4) failing to report the forklift incident; and (5) using company property without authorization. Reinhard was escorted off the company's property that day.

On November 8, 2012, Reinhard arrived at Federal Cartridge for a meeting with P.K., plant manager M.C., and human-resources generalist J.A. to discuss his suspension and whether he should be reinstated to his employment. M.C. and J.A. met Reinhard in the clock-house lobby. As Reinhard started to walk toward a conference room, J.A. instructed him to wait in the lobby until P.K. arrived. Reinhard replied, "I heard you," but walked past J.A., entered the conference room, and sat down. J.A. asked Reinhard to move over one chair. Because the room was "very small," J.A. thought it would be difficult for somebody to "squeeze" behind Reinhard to get to the other chair. Reinhard refused to move. J.A. explained: "I'm just asking you to move over to the other chair." Reinhard again refused to move, stating: "I want to sit here." After J.A. asked, "Are you joking?" Reinhard stood up and announced that he was going to retire. He left the

conference room and tendered his resignation. Reinhard filled out a voluntary separation form and indicated that his reason for separation was "retirement."

Reinhard applied for unemployment benefits with respondent Minnesota Department of Employment and Economic Development (DEED). DEED determined that Reinhard is ineligible for benefits. Reinhard appealed. A ULJ held an evidentiary hearing at which Reinhard requested that the ULJ subpoena additional witnesses and documents. Following the hearing, the ULJ determined that additional evidence was not necessary. The ULJ affirmed DEED's determination, concluding that Reinhard quit his employment without a good reason caused by the employer. The ULJ affirmed that decision upon reconsideration. This certiorari appeal follows.

D E C I S I O N

We review a ULJ's decision to determine whether it is (1) in violation of the constitution; (2) in excess of DEED's statutory authority or jurisdiction; (3) made upon unlawful procedure; (4) affected by other error of law; (5) unsupported by substantial evidence; or (6) arbitrary or capricious. Minn. Stat. § 268.105, subd. 7(d) (2012).

I.

A quit from employment disqualifies an applicant from receiving unemployment benefits unless one of ten statutory exceptions applies. Minn. Stat. § 268.095, subd. 1 (2012). One exception governs applicants who quit for "a good reason caused by the employer." *Id.*, subd. 1(1). A reason is "a good reason caused by the employer" when it (1) is directly related to the employment and for which the employer is responsible; (2) is adverse to the worker; and (3) would compel an average, reasonable worker to quit and

become unemployed rather than remaining in the employment. *Id.*, subd. 3(a) (2012). The reason why an employee quit employment is a factual question for the ULJ to determine. *See Beyer v. Heavy Duty Air, Inc.*, 393 N.W.2d 380, 382 (Minn. App. 1986) (reviewing determination of reason for quit as factual). We review factual findings in the light most favorable to the ULJ's decision and will not disturb findings that are supported by substantial evidence. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). Whether an employee's reason for quitting constitutes a good reason attributable to the employer is a question of law, which we review de novo. *Rootes v. Wal-Mart Assocs., Inc.*, 669 N.W.2d 416, 418 (Minn. App. 2003).

Reinhard argues that he had a good reason to quit because Federal Cartridge uses compressed air to clean equipment in the lead plant in violation of OSHA regulations and, as a result of that practice, he feared developing lead poisoning. But the ULJ discredited Reinhard's testimony that he quit due to any concern regarding his employer's regulatory compliance. Instead, the ULJ found that Reinhard quit because he was upset about his suspension and the way he was treated in the disciplinary process. Substantial evidence supports this finding. Reinhard testified that P.K.'s decision to "go all the way to suspension" was "ridiculous" and that P.K. could have given him a warning instead. Reinhard also testified that he did not intend to quit going into the November 8 meeting. But he disliked J.A.'s request that he change seats, which, Reinhard testified, made him feel like he was being asked to "sit in the corner." In response to this treatment, Reinhard announced his retirement, left the meeting, and submitted his resignation. When asked by the ULJ why he did not continue with the

meeting, Reinhard explained: "I did not like the way [J.A.] was treating me, so I decided enough is enough." Because substantial evidence supports the ULJ's finding as to why Reinhard chose to retire, we will neither disturb that finding nor reweigh the testimony. *See Skarhus*, 721 N.W.2d at 344.

Although Reinhard may have had a good personal reason for retiring, a good personal reason does not necessarily constitute good cause for the purposes of unemployment benefits. *See Kehoe v. Minn. Dep't of Econ. Sec.*, 568 N.W.2d 889, 891 (Minn. App. 1997). Furthermore, mere dissatisfaction with a manager does not constitute a good reason to quit caused by an employer. *Trego v. Hennepin Cnty. Family Day Care Ass'n*, 409 N.W.2d 23, 26 (Minn. App. 1987). Nor do irreconcilable differences with the employer, *Foy v. J.E.K. Indus.*, 352 N.W.2d 123, 125 (Minn. App. 1984), *review denied* (Minn. Nov. 8, 1984), or frustrations with one's job, *Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 14 (Minn. App. 1986). While Reinhard's suspension was adverse to him, as was his frustration with J.A. and the disciplinary process, an average reasonable employee would not be compelled to quit and become unemployed under like circumstances. Consequently, the ULJ did not err in her decision denying benefits.

II.

Reinhard argues that the ULJ made her decision upon unlawful procedure by failing to subpoena additional witnesses and documents that he requested. As a result, Reinhard contends, the record was insufficiently developed.

A ULJ must ensure that all relevant facts are clearly and fully developed. Minn. Stat. § 268.105, subd. 1(b) (2012). A ULJ has authority to issue subpoenas to compel the

attendance of witnesses and the production of documents "considered necessary as evidence." *Id.*, subd. 4 (2012). A ULJ must give full consideration to a request for a subpoena and must not unreasonably deny that request. *Id*.

Reinhard alleges that the ULJ failed to consider his subpoena requests. The record reflects otherwise. When Reinhard requested that the ULJ subpoena two OSHA inspectors as witnesses, the employer's timecard records, and the employer's policy handbook, the ULJ explained that she would first take testimony from Reinhard and the employer's witness before determining whether additional evidence was necessary. Following the hearing, the ULJ ruled that the requested evidence was not necessary to render a decision.

Reinhard challenges that determination. He argues that the ULJ should have granted his request to subpoena testimony from OSHA inspectors. Without testimony concerning the nature of Federal Cartridge's prior OSHA violations, he argues, the ULJ could not determine whether Reinhard had good cause for quitting. We disagree. While there is ample evidence that Reinhard had safety concerns relating to his work at Federal Cartridge, testimony of an OSHA inspector is not relevant to the good-cause determination here, because Reinhard did not quit due to concerns about his employer's regulatory compliance. Testimony concerning what regulations Federal Cartridge allegedly violated was therefore not necessary.

Reinhard also argues that the ULJ should have granted his request to subpoena the employer's timecard records. Reinhard asserts that those records are necessary to prove that he did not arrive to work early on October 27. But Reinhard acknowledged at the

hearing that he arrived to work early on October 27 and used the forklift before his shift and before clocking in. Testimony of the employer's witness was consistent with that. Because there was no factual dispute presented at the hearing concerning whether Reinhard operated the forklift before his shift on October 27, the requested evidence was not necessary.

Finally, Reinhard argues that the ULJ should have granted his request to subpoena the employer's policy handbook. Reinhard posits that the handbook would have shown that he had a colorable claim that Federal Cartridge breached the terms of his employment contract by ignoring its disciplinary procedures. But whether Reinhard might have a viable contract claim against Federal Cartridge is irrelevant to the issue of whether his reason for quitting rises to the level of good cause. Even so, the record belies Reinhard's assertion that Federal Cartridge ignored its disciplinary procedures by suspending him rather than issuing a warning. Reinhard submitted into evidence a copy of his suspension letter, which cites the policy handbook's provisions concerning employee discipline as follows:

> If possible, employees will be moved through a hierarchy of disciplinary or corrective action steps typically referred to as progressive discipline. . . .
>
> At the Company's sole discretion, in certain instances where conduct is deemed to be particularly serious or directly counter to the best interests . . . the disciplinary steps may be bypassed. In this case, an employee may immediately receive a more serious form of discipline, up to and including termination.

Because the evidence establishes that the employer retains complete discretion to follow progressive disciplinary steps, or bypass those steps when deemed necessary, Reinhard's argument that the employer ignored its policies is without merit, as is his contention that a copy of the handbook was necessary for the ULJ's decision.

The ULJ's decision was made upon lawful procedure and is supported by substantial evidence in the record.

Affirmed.