

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2006).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-0994**

Karla E. Safo,
Relator,

vs.

Professional Warehouse,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed June 24, 2008
Affirmed
Toussaint, Chief Judge**

Department of Employment and Economic Development
File No. 3599 07

Karla E. Safo, Post Office Box 65574, St. Paul, MN 55101 (pro se relator)

Professional Warehouse, 2117 Charles Avenue, St. Paul, MN 55114-1316 (respondent)

Lee B. Nelson, Katrina I. Gulstad, Department of Employment and Economic
Development, 332 Minnesota Street, Suite E200, St. Paul, MN 55101-1351 (for
respondent Department)

Considered and decided by Lansing, Presiding Judge; Toussaint, Chief Judge; and
Hudson, Judge.

UNPUBLISHED OPINION

TOUSSAINT, Chief Judge

Karla E. Safo appeals from the finding of an unemployment law judge (ULJ) that she did not quit employment for good reason caused by respondent-employer Professional Warehouse and contends that the ULJ made several errors during the evidentiary hearing. Because we find that substantial evidence supports the ULJ's findings and that the ULJ did not make any errors during the evidentiary hearing, we affirm.

DECISION

I.

Relator argues that she quit her employment as an office assistant at Professional Warehouse for a good reason caused by her employer and is therefore eligible for unemployment benefits. Relator cites three primary reasons for her resignation: her strained relationship with her supervisor; her concern that she would be blamed for certain stolen money; and her employer's Internet use policy.

The determination that an employee quit without good reason attributable to the employer is a legal conclusion, which this court reviews de novo. *Peppi v. Phyllis Wheatley Cmty. Ctr.*, 614 N.W.2d 750, 752 (Minn. App. 2000). This court reviews a ULJ's findings of fact in the light most favorable to the ULJ's decision and will not disturb those factual findings when they are supported by substantial evidence. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006).

An employee who quits employment shall be disqualified from all unemployment benefits unless he or she quit employment because of a good reason caused by the employer. Minn. Stat. § 268.095, subd. 1(1) (2006). A good reason to quit caused by the employer must be “directly related to the employment for which the employer is responsible,” “adverse to the worker,” and one that “would compel an average, reasonable worker to quit and become unemployed.” *Id.*, subd. 3(a)(1)-(3) (2006).

First, relator argues that she had good reason to quit her employment because she was constantly harassed by her supervisor and because her supervisor had an excessively critical, condescending, and accusatory attitude toward her. But the record supports the ULJ’s determination that relator’s tense relationship with her supervisor would not compel the average, reasonable worker to quit. This court has previously held that the “phrase ‘good cause attributable to the employer’ does not encompass situations where an employee experiences irreconcilable differences with others at work.” *Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 14 (Minn. App. 1986); *see also Bongiovanni v. Vanlor Invs.*, 370 N.W.2d 697, 699 (Minn. App. 1985) (noting that personality conflict is not good reason for quitting).

Although relator claimed that she was continuously frustrated with her supervisor’s manner and tone, she cited only one example of her conflict with her supervisor, that her supervisor falsely accused her of making errors. The ULJ did not err in determining that relator’s supervisor’s blame, even if made in error, was not so unreasonable that it would compel the average, reasonable worker to quit. Therefore, relator’s frustration and dissatisfaction with her supervisor did not constitute a good

reason to quit under Minn. Stat. § 268.095, subd. 3(a).

Further, although relator complained twice to the owners of Professional Warehouse about the difficulty she experienced working with her supervisor, one of the owners testified at the hearing that he believed the problems were resolved because relator did not speak to the owners again regarding her relationship with her supervisor after June 2006 and before she quit in February 2007. *See* Minn. Stat. § 268.095, subd. 3(c) (2006) (before “adverse working conditions” may be considered good reason for quitting caused by employer, worker “must complain to the employer and give the employer a reasonable opportunity to correct the adverse working conditions”). Because relator did not complain after June 2006 and prior to her resignation, she did not give the employer a reasonable opportunity to correct the alleged adverse working condition. Therefore, relator’s reason for quitting, that her supervisor was excessively critical, condescending, and accusatory toward her, was not caused by the employer.

Second, relator contends that she had good reason to quit because she believed that she eventually would have been blamed for the theft of missing cash. She asserts that her supervisor hid cash in a desk in violation of the employer’s policy that cash be given only to one of the owners, which she thought made it look as though she had stolen the cash. Relator claims that her supervisor actually took the money. The record supports the ULJ’s determination that this was not an incident that would compel the average worker to quit. The ULJ noted that another employee made a vague accusation toward relator when one deposit was missing and he asked relator to give the deposit back. But one of the owners testified that he and the other owner never believed or thought that relator was

the employee stealing money and told relator so. Therefore, we determine that relator's concern that she would be blamed for the missing cash was not an adverse working condition created by the employer. Relator did not complain to the owners about the other employee's accusation. *See* Minn. Stat. § 268.095, subd. 3(c). The record supports the ULJ's conclusion that relator's concern she would be blamed for the missing cash was not a good reason to quit under section 268.095, subd. 3 entitling her to unemployment benefits.

Third, relator claims that she quit for good reason because of the employer's Internet policy, which restricts employees from using the Internet for personal reasons. Although relator concedes that the policy was reasonable, she complains that other employees used the Internet for personal reasons with impunity. One of the owners spoke with relator about her excessive personal use of the Internet in December 2006. Relator agreed to comply with the Internet policy, and the owner believed that the issue was resolved. On February 6, 2007, relator's supervisor reviewed her Internet usage and discovered that relator had continued to use the Internet for personal reasons. Relator explained to one of the owners that she had done so for another employee, and the owner told her that it was fine that she had done so. At the end of that day, relator quit. At no point did she complain about the Internet use policy or protest that she was unfairly treated because other employees freely used the Internet for personal reasons. *See* Minn. Stat. § 268.095, subd. 3(c). Because relator did not give the employer an opportunity to address her complaints about the Internet-use policy or the uniformity with which that policy was applied, the ULJ did not err in concluding that the Internet-use policy was not

a good reason for relator to quit caused by the employer. The record supports the ULJ's determination that the employer's Internet monitoring was not unreasonable treatment of relator.

Substantial evidence supports the ULJ's determination that relator did not quit her employment for a good reason caused by the employer, as defined by section 268.095, subdivision 3.

II.

Relator argues that the ULJ erred when (1) he relied on the employer's exhibit showing the December 2006 Internet-usage report that precipitated the discussion with relator about her violation of the Internet policy and (2) he failed to admit her handwritten notes into the record during the evidentiary hearing. A ULJ is required to "exercise control over the hearing procedure in a manner that protects the parties' rights to a fair hearing." Minn. R. 3310.2921 (2007). A hearing is generally considered fair if both parties are afforded an opportunity to give statements and cross-examine witnesses. *Ywswf v. Teleplan Wireless Servs., Inc.*, 726 N.W.2d 525, 529-530 (Minn. App. 2007).

The record shows that the ULJ's evidentiary decisions did not violate relator's right to a fair hearing. When one of the owners of Professional Warehouse referred to the exhibit showing relator's Internet usage during the hearing, the ULJ asked whether the owner had faxed that exhibit to relator's attorney. Upon discovering that the owner had not, the ULJ himself faxed the documents to relator's attorney for review before the exhibit was discussed. It was reasonable, fair, and within the ULJ's discretion to proceed in this manner.

Although relator complains that the ULJ did not admit her April 2006 handwritten notes documenting her concerns with her supervisor, the ULJ actually did admit this handwritten exhibit, and there was no error in doing so. *See* Minn. R. 3310.2922 (2007) (noting that it is generally within ULJ's discretion to admit evidence).

The ULJ's evidentiary determinations and conduct during the hearing did not violate relator's right to a fair hearing, and thus we affirm his finding that relator was disqualified from receiving unemployment benefits.

III.

Relator argues that it was error for the ULJ not to enforce a conciliation court judgment determining that she is entitled to vacation pay. It is not within the ULJ's authority to enforce a judgment of the conciliation court. *See* Minn. Stat. 268.105, subd. 5a (2006) ("No findings of fact or decision or order issued by an unemployment law judge may be held conclusive or binding or used as evidence in any separate or subsequent action in any other forum, be it contractual, administrative, or judicial")

Affirmed.