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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-1939**

Kristin Krueger,
Relator,

vs.

Ryan Chevrolet Oldsmobile Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed September 23, 2008
Affirmed
Lansing, Judge**

Department of Employment and Economic Development
File No. 9275 07

Kristin L. Krueger, 1172 – 31st Street Southeast, Buffalo, MN 55313 (pro se relator)

Ryan Chevrolet Oldsmobile Inc., P.O. Box 513, Buffalo, MN 55313-0513 (respondent)

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(for respondent Department of Employment and Economic Development)

Considered and decided by Lansing, Presiding Judge; Minge, Judge; and
Connolly, Judge.

UNPUBLISHED OPINION

LANSING, Judge

Kristin Krueger appeals, by writ of certiorari, an unemployment-law judge's determination that Krueger's voluntary termination of employment disqualified her from receiving unemployment benefits. Because a person who quits employment is generally disqualified from receiving benefits and none of the eight statutory exceptions from the general rule applies, we affirm.

FACTS

Ryan Chevrolet Oldsmobile Inc. employed Kristen Krueger from September 2000 until March 2007, when she quit to accept a new job as an insurance agent. In her new job, Krueger was paid on commission only. Krueger quit her new job in May 2007 because her commissions were insufficient to cover her job-related costs.

Krueger applied for unemployment benefits with the Department of Employment and Economic Development (DEED) in May 2007. DEED determined that Krueger was disqualified for unemployment benefits because a person who quits to accept other employment is only qualified for benefits based on the previous job if the new job qualifies as covered employment, and the job as an insurance agent was "noncovered" employment. Minn. Stat. § 268.095, subd. 1(2) (2006) (quit-to-accept-other-employment provision); Minn. Stat. § 268.035, subd. 20(26) (2006) (defining noncovered employment to include insurance salesperson paid on commission).

Krueger appealed DEED's denial of benefits. At the appeal hearing, Krueger testified that she quit her employment at Ryan Chevrolet Oldsmobile because of a

difficult relationship with a coworker. Krueger said that she and her coworker were unable to work together and her coworker's actions sabotaged her position. As a second reason for quitting, Krueger cited a demotion that had occurred more than two years previously.

Based on Krueger's testimony at the hearing, the unemployment-law judge (ULJ) concluded, consistent with DEED's determination, that Krueger did not meet the requirements of the quit-to-accept-other-employment provision because the new job she accepted was noncovered employment. The ULJ further concluded that Krueger's termination of her employment because of her difficult relationship with a coworker did not qualify as "a good reason caused by the employer" under Minn. Stat. § 268.095, subd. 1(1) (2006), and that the demotion was too remote in time to be a reason for her quit. Based on these conclusions, the ULJ determined that Krueger was disqualified from receiving unemployment benefits.

On Krueger's request for reconsideration, the ULJ affirmed. Krueger, by writ of certiorari, appeals the affirmation order.

DECISION

We review a ULJ's decision to determine whether substantial rights were prejudiced because the findings, inferences, conclusion, or decision are affected by error of law or "unsupported by substantial evidence in view of the entire record." Minn. § 268.105, subd. 7(d) (2006) (providing bases on which this court may reverse or modify ULJ's decision).

At the time of the decision under review, a person who quit employment was disqualified from receiving unemployment benefits unless one of eight statutory exceptions applied. Minn. Stat. § 268.095, subd. 1 (2006). Two of these statutory exceptions were considered and rejected during the course of Krueger's application and hearing process and are relevant to this appeal.

First, a person qualifies for benefits if the person "quit[s] the employment to accept other covered employment that provided substantially better terms and conditions of employment" but left that employment without "sufficient subsequent earnings" to provide a basis for unemployment benefits. *Id.*, subd. 1(2). The ULJ determined that, although Krueger initially reported that she quit her job to accept other employment, she did not qualify for benefits under the first exception because her new job did not qualify as covered employment. The law supports this determination. In her new position as an insurance salesperson, Krueger was paid on a commission basis only. The unemployment-benefits statute defines "noncovered employment" in part as "employment as an insurance salesperson, by other than a corporate officer, if all the wages from the employment is solely by way of commission." Minn. Stat. § 268.035, subd. 20(26). The ULJ therefore properly concluded that Krueger did not qualify for benefits under the first exception.

The second relevant exception provides that a person qualifies for benefits if the person "quit[s] the employment because of a good reason caused by the employer." Minn. Stat. § 268.095, subd. 1(1). The ULJ determined that Krueger did not qualify for benefits based on this second exception. Under the employment-benefits statute, a "good

reason” for quitting is one “that is adverse to the worker,” “that is directly related to the employment,” and “that would compel an average, reasonable worker to quit and become unemployed.” *Id.*, subd. 3(a) (2006). The determination that an employee quit without good reason caused by the employer is a legal conclusion, which we review de novo. *See Zepp v. Arthur Treacher Fish & Chips, Inc.*, 272 N.W.2d 262, 263 (Minn. 1978) (per curium) (characterizing decision as conclusion of law); *see also Jenkins v. Am. Express Fin. Corp.*, 721 N.W.2d 286, 289 (Minn. 2006) (exercising independent judgment on issue of law). In the resolution of conflicting testimony or the assessment of credibility, however, we defer to the ULJ. *Skarhus v. Davanni’s, Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006).

At the evidentiary hearing, Krueger testified that she had two main reasons for quitting. She said that she had difficulty getting along with a coworker and that she was upset about being demoted from her position as a manager in February 2005. The ULJ determined that Krueger’s first reason for quitting, her inability to get along with her coworker, was not a good reason for quitting because her coworker did not act “so egregiously so as to cause an average, reasonable employee to quit.” Minnesota caselaw and the record support this conclusion. Generally, dissatisfaction with work conditions or conflict with others at work will not constitute a good reason for quitting. *E.g., 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).

Krueger did not identify any particularly egregious behavior on the part of her coworker, and Krueger's supervisor testified that the coworker is "a very gracious person" and is not "difficult in any way." Because the caselaw and the record demonstrate that Krueger's problems with her coworker would not have compelled "an average, reasonable worker to quit," this reason for quitting did not qualify as a good reason to quit under the statutory exception. Minn. Stat. § 268.095, subd. 3(a)(3).

The other reason that Krueger provided for quitting was a demotion from her position as a manager in February 2005. In evaluating this reason, the ULJ specifically found that Krueger's testimony was not credible. We are required to defer to the ULJ's assessment of credibility. *Skarhus*, 721 N.W.2d at 344. Furthermore, the evidence substantially supports the ULJ's finding that Krueger's "primary reason for quitting was her inability to get along with [her coworker]," not the 2005 demotion. Krueger quit shortly after her coworker returned to Krueger's department after a brief stint in another department. The demotion, on the other hand, occurred over two years before Krueger quit. The ULJ reasonably inferred that the demotion was "too remote in time" to account for Krueger's quitting.

The record also demonstrates that Krueger's statements about why she quit are not consistent. In her initial DEED application, she stated that she quit to accept other employment. At her evidentiary hearing, she indicated that her problems with her coworker were "pretty much why [she] gave [her] notice." And on appeal she contends that she quit because of her 2005 demotion. The ULJ reasonably determined that

Krueger's reason for quitting was her problems with her coworker and that this did not qualify as a good reason under the unemployment-benefits statute.

We conclude that the ULJ properly determined that Krueger is disqualified from receiving unemployment benefits because she quit her employment and did not qualify for benefits under any of the statutory exceptions.

Affirmed.