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**STATE OF MINNESOTA
IN COURT OF APPEALS
A09-20**

Clinton Bethune, Jr.,
Relator,

vs.

Target Corporation,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed November 17, 2009
Affirmed
Schellhas, Judge**

Department of Employment and Economic Development
Agency File No. 21194899

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Considered and decided by Schellhas, Presiding Judge; Wright, Judge; and Bjorkman, Judge.

UNPUBLISHED OPINION

SCHELLHAS, Judge

Relator appeals by writ of certiorari following a decision by an unemployment-law judge (ULJ) that relator was ineligible for unemployment benefits. Relator argues that the decision was not supported by credibility findings and that he had good reason caused by his employer to quit. We affirm.

FACTS

Relator Clinton Bethune Jr. sought unemployment benefits after submitting to his former employer, respondent Target Corporation, a request to transfer to Louisiana and after moving to Louisiana without assurance from Target that work would be available to him at a Target store there. Respondent Department of Employment and Economic Development determined that relator was ineligible for unemployment benefits because he quit his employment for personal reasons. Relator appealed and a ULJ held a telephone hearing. Relator participated in the hearing on his own behalf, and Jennifer Blumhoefer participated on behalf of Target.

During the telephone hearing, relator testified that he began working for Target in 2005 in Metairie, Louisiana. After Hurricane Katrina, relator transferred to a Target store in Apple Valley and then to a Target store in Lakeville, working as an overnight stocker. On June 26, 2008, relator submitted a request to transfer to a Target store in Louisiana, and he spoke with Blumhoefer, who works in Target's human resources department. Relator's last day of work in Lakeville was June 30, at which time he had not received a final response from a Target store in Harvey, Louisiana, about his requested transfer.

When the ULJ asked relator if he resigned or quit his employment, relator answered, “No I did not resign, I did not quit. I was trying to move back down this way but anyway I had put in for transfer, but I did it at the last minute before I left.” By “back this way,” relator meant Louisiana. The ULJ asked relator if, when he requested a transfer, he was intending to move or already had plans to move back to New Orleans. Relator answered:

Well it was kind of up and down when I was gonna move because of the difficulty getting funding to be able to move. And I had an agency that was kind of working with us to, and it was kind of all up and down as to whether or not they had the correct funds, gas was up, trying to get enough money for gas and also having a U-haul that could take furniture that we had to move.

The ULJ asked if relator told anyone at Target that he was moving, and relator answered, “Yes, I talked to I’m not sure about his name, the overnight guy Jerry I think.” Jerry was a supervisor “over the night shift.” Relator spoke with Jerry on June 28 and Jerry wanted to know about relator’s plans. Relator explained, “I told him that the plans were to move back to Louisiana and I was talking to the HR to try to get transferred.” When relator finalized his moving plans, he spoke with someone at Target. He thought he spoke with Blumhoefer but was not sure. Relator explained that he discussed “just that I was going to be going back to Louisiana.”

On July 2, 2009, relator moved back to Louisiana without a transfer in place. When he arrived in Louisiana, he spoke with an employee in Target’s human resources department but was not offered employment because “she didn’t have anything for me right then.”

When the ULJ asked relator if he wanted to add anything else, relator answered:

Yes, the point about the reason really for leaving was trying to get more money you know to be able to have enough to live, and this reason had to do with my wage sheet as you can see as to how the wages were during the time that I was working there especially from April through July 19th as to how much I was making, this was an average of \$750 for four months resulting in \$93 every two weeks. And so this was not enough for me to live on so therefore, I was trying to move to a store that I could get enough hours to be able to live and to move back to where I was.

Blumhoefer, whose job title was “executive team leader HR,” testified that she remembered relator’s transfer request and that relator and his wife told her “they were planning on going to Louisiana, they wanted to get a transfer,” and “they wanted to leave that week end.” Blumhoefer told them she could request a transfer but could not tell them how long it would take to get the transfer approved or if the location had a need for people. Blumhoefer testified, “We reached out to the Harvey store and the Metairie store and took awhile to get feedback from them.” Target did not terminate relator after his move because Target was trying to seek the transfer. Blumhoefer did not know that relator was leaving on July 2, but said that “[h]e did indicate to me when I spoke to him the first time on [June] 26th that he was hoping to leave as soon as possible.” Relator was scheduled to work on July 5, 6, and 12, but he did not call Target or show up for work. Target did not terminate relator until it received final word on the transfer in August. The Harvey store’s last response was that it was not able to employ relator.

The ULJ asked Blumhoefer if relator ever expressed concern to her about his schedule or a lack of hours before he left Minnesota. Blumhoefer answered, “I don’t

know that he spoke with me directly but I know that he has spoken with his overnight team leader about getting more hours. We had our hours reduced for the stores so we had to reduce hours for our team members.”

The ULJ determined that relator was ineligible for benefits because he quit his employment without good reason caused by the employer. Relator sought reconsideration and the ULJ affirmed. This certiorari appeal follows.

D E C I S I O N

Relator argues that the ULJ’s decision was not supported by credibility findings and that he was eligible for benefits because he had a good reason caused by his employer to quit—his reduction in hours.

Credibility Findings

When reviewing the decision of a ULJ, we may remand, reverse, or modify if the substantial rights of the petitioner have been prejudiced because the findings, inferences, conclusion, or decision are, among other things, made upon unlawful procedure, affected by other error of law, unsupported by substantial evidence, or arbitrary or capricious. Minn. Stat. § 268.105, subd. 7(d) (2008); *Skarhus v. Davanni’s Inc.*, 721 N.W.2d 340, 343 (Minn. App. 2006). We view a ULJ’s factual findings in the light most favorable to the ULJ’s decision and will not disturb the ULJ’s findings if the evidence substantially sustains them. *Skarhus*, 721 N.W.2d at 344. We defer to the ULJ’s credibility determinations. *Id.*

The ULJ found that relator left on July 2, 2008, without having a position to transfer to in Louisiana, and that Target terminated relator after the Louisiana stores were

unable to accept his transfer. The ULJ found that relator “had no assurance of continuing employment in Louisiana when he decided to move” and, for this reason, the ULJ found that relator “made the decision to end the employment on July 2, 2008.” The ULJ noted that relator argued that he quit because his hours were cut, and the ULJ found that “[t]he evidence . . . shows that [relator] did not request a transfer to a store that offered more hours, but requested a transfer to a store in Louisiana where he intended to move,” and that relator “did not request a transfer until days before he intended to move.” The ULJ found that relator “quit the employment because he was moving to Louisiana” and that this was not a good reason caused by the employer.

Relator argues that, in reaching his conclusion, the ULJ relied on credibility determinations without complying with Minn. Stat. § 268.105, subd. 1(c) (2008). “When the credibility of an involved party or witness testifying in an evidentiary hearing has a significant effect on the outcome of a decision, the [ULJ] must set out the reason for crediting or discrediting that testimony.” Minn. Stat. § 268.105, subd. 1(c).

We conclude that the ULJ’s findings satisfied, albeit minimally, the statutory requirement for findings setting out the reason for crediting or discrediting testimony. The ULJ rejected relator’s testimony and argument that his reduction in hours caused his move, citing evidence in the record that showed that relator’s desire to relocate caused his move.

Reason for Separation

Relator also argues that he had a good reason to quit—a reduction in his hours. An applicant who quits employment is generally ineligible for all unemployment

benefits, but an exception applies when the applicant quits because of a good reason caused by the employer. Minn. Stat. § 268.095, subd. 1(1) (2008). Whether an applicant had a good reason to quit is a legal question, but the reason an applicant quit is a factual question. *See Peppi v. Phyllis Wheatley Cmty. Ctr.*, 614 N.W.2d 750, 752 (Minn. App. 2000) (“The issue of whether an employee had good reason to quit is a question of law reviewed de novo.”); *Beyer v. Heavy Duty Air, Inc.*, 393 N.W.2d 380, 382 (Minn. App. 1986) (reviewing a decision that an employee’s drinking problem was not the reason for his separation from employment as a factual finding).

Good reason caused by the employer is defined as a reason that: (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.” Minn. Stat. § 268.095, subd. 3(a) (2008).

Here, much of relator’s testimony shows that he requested a transfer because he was moving, not because his hours were reduced. He testified that before he moved, he explained to Target “just that [he] was going to be going back to Louisiana.” And as noted by the ULJ, relator did not request a transfer to a store that offered more hours and he moved without any assurance of continuing employment in Louisiana. The ULJ’s finding that the reason for relator’s separation was his move, not his reduction in hours, is adequately supported. We therefore conclude that the ULJ did not err in determining that relator was ineligible for unemployment benefits.

Affirmed.