STATE OF MINNESOTA
IN COURT OF APPEALS
A09-21

Jessica Johnson,
Relator,

vs.

Centerpoint Energy-Minnegasco,
Respondent,

Department of Employment &
Economic Development,
Respondent.

Filed October 13, 2009
Affirmed
Harten, Judge*

Department of Employment and Economic Development
Agency File No. 103521227

Jessica M. Johnson, 2048 Vienna Lane, Eagan, MN 55122 (pro se relator)

Centerpoint Energy-Minnegasco, c/o Unemployment Services dba TALX, P.O. Box 749000, Arvada, CO 80006-9000 (respondent)

Lee B. Nelson, Department of Employment and Economic Development, First National Bank Building, 332 Minnesota Street, Suite E200, St. Paul, MN 55101-1351 (for respondent DEED)

Considered and decided by Lansing, Presiding Judge; Shumaker, Judge; and Harten, Judge.

---

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

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

HARTEN, Judge

Relator, acting pro se, challenges the determination of the unemployment law judge (ULJ) that relator did not quit her job because of a good reason caused by her employer. Because substantial evidence supports the ULJ's finding that relator did not give her employer an opportunity to correct the situation of which she complained, we affirm.

FACTS

Relator Jessica Johnson was employed by respondent Centerpoint Energy-Minnegasco. On Thursday, 19 June 2008, relator stayed home from work on medical leave because of complications with her pregnancy. Her supervisor held a previously scheduled team meeting that concluded, as usual, with workers having an opportunity to express their concerns. Some of relator's co-workers used this opportunity to state their objections to doing extra work because of relator's frequent absences. The topic was not initiated by the supervisor. The next day, one co-worker sent relator a text message saying that she objected to the extra work resulting from relator's absences. Relator was disturbed by the text message, but did not mention it to her supervisor.

On Monday, 23 June, relator returned to work, and another co-worker told her about the objections that had been made at the end of the team meeting the previous Thursday. Relator inferred from what the co-worker said that the supervisor had permitted relator's co-workers to discuss her work performance. Relator considered this to be evidence of a hostile work environment for which she wanted to file a grievance;

she sent the chief union steward an email asking about the procedure for filing a grievance. The chief union steward replied that relator should file a harassment charge against the supervisor with respondent's human resources (HR) department. Relator asked whom she should speak to in HR; she was given the name and contact information of an HR person located in Houston, Texas. Relator emailed this person, saying she wanted to file a claim against both the supervisor and her co-workers. A HR generalist then contacted relator and told her that her claim would be investigated by one of two HR people, whose names she provided; one of them was officed in Houston and one in Minneapolis.

After this exchange, relator received a month-long leave under the Family Medical Leave Act (FMLA). On 29 July, when she returned to work, she contacted the Minneapolis HR person whose name she received from the HR generalist. Relator never attempted to contact the Houston HR person who might have been assigned to investigate the complaint. When relator asked the Minneapolis HR person about the status of the investigation of her complaint, the HR person said she knew nothing about it. Relator indicated that she thought nothing would happen and it would be better if she quit. The HR person volunteered to look into the matter and suggested that relator stay home on vacation for a few more days until it could be resolved. But relator declined the offer and said that she intended to call her supervisor and quit. When relator called to quit, her supervisor first learned that relator had been upset by the text message she received from a co-worker in June.

Relator applied to respondent Department of Employment and Economic Development (DEED) for unemployment benefits. On 14 August 2008, a DEED adjudicator determined that relator quit because of a good reason caused by her employer, to wit, allowing a hostile work environment. The employer appealed, and, following a telephone hearing, the ULJ determined that relator was ineligible for benefits because she quit without a good reason caused by her employer and had been overpaid $2,106 in benefits. Another ULJ affirmed this decision in response to relator's request for reconsideration.[1]

On certiorari appeal, relator asserts that she quit because of a good reason caused by her employer.

D E C I S I O N

"The determination that an employee quit without good reason attributable to the employer is a legal conclusion, but the conclusion must be based on findings that have the requisite evidentiary support." *Nichols v. Reliant Eng'g & Mfg., Inc*. 720 N.W.2d 590, 594 (Minn. App. 2006). A ULJ's factual findings will not be disturbed if the evidence substantially sustains them. *Skarhus v. Davanni's, Inc*., 721 N.W.2d 340, 344 (Minn. App. 2006).

"If an applicant was subjected to adverse working conditions by the employer, the applicant must complain to the employer and give the employer a reasonable opportunity to correct the adverse working conditions before that may be considered a good reason

[1] The original ULJ was no longer employed by DEED.

caused by the employer for quitting." Minn. Stat. § 268.095, subd. 3(c) (2008). The ULJ's conclusion that relator did not have a good reason to quit attributable to her employer was based on the finding that relator "did not give [her employer] an opportunity to address her concerns prior to quitting her employment." Substantial evidence supports this finding.

After talking with her union steward, relator contacted the HR person in Houston but did not directly tell her supervisor about her concerns. Relator acknowledged that, when she told the local HR person that she wanted to quit, "[the HR person] did . . . say . . . are you sure you want to resign. I'm going to look into this. . . . Are you sure[?] . . . I'm going to follow up on this. . . ." Relator said, "[F]or what's going on . . . and having to deal with this work environment, . . . I just feel like it's best for both me and the company if I just resigned . . . ." Relator's testimony is corroborated by her supervisor's testimony. The supervisor testified that, when relator called her to resign, "She talked about the text messaging, talked about her co-workers and them being mean and rude. She said she didn't feel like she should have to deal with it." Thus, the testimony of both relator and her supervisor supports the finding that relator did not comply with Minn. Stat. § 268.095, subd. 3(c), by giving her employer a reasonable opportunity to correct the situation of which she complained.

The testimony of both relator and the supervisor also indicates that relator did not think her work situation would improve if she complained to her supervisor. Relator testified: "I have a history of telling [the supervisor] about things . . . and I've never had anything done about it" and "I just thought it was best to just leave the situation, because

it wasn't going to change. . . . [T]he situation was still going to be happening." The supervisor recalled relator as having said that she "didn't feel anything would be done about it."

Testimony from relator and her supervisor also shows that relator's reason for quitting was dissatisfaction with her job. Dissatisfaction with a job is not a good reason caused by the employer to quit. *Trego v. Hennepin County Family Day Care Ass'n*, 409 N.W.2d 23, 26 (Minn. App. 1987). Relator testified that she said to the HR person, "I don't want to deal with that type of work environment anymore" and "why should I have to be that uncomfortable in my job. . . . I don't think any person should have to deal with an environment like that." Relator's supervisor, when asked what reason relator gave for resigning, answered, "She said she was stressed due to the hostile work environment." Relator's dissatisfaction with her job because of a co-worker's text message and other co-workers' reported comments did not amount to a quit caused by her employer.

Relator argues that her employer should have investigated her complaint while she was absent on FMLA leave. But relator's first complaint alleged harassment because a co-worker sent a text message objecting to the amount of additional work while relator was at home on medical leave. Her second complaint was that, while she was out on medical leave, her supervisor permitted co-workers to discuss her absences. Respondent's representative at the hearing asserted in her summary that the employer could have been taking action at the Houston office while relator was on leave, but relator did not allow the local office time to investigate or even speak with her because she was "out on leave." There is no evidence as to whether the Houston office had been active or

whether relator was available to participate in the investigation while she was on FMLA leave.

Relator also argues that she was subject to harassment because of "disclosure of private medical information." But, when asked whether the co-worker who told relator about the employees' meeting had said that the supervisor disclosed information about relator's condition, she testified that the co-worker "didn't say that [the supervisor] discussed anything herself." The supervisor answered, "Absolutely not," when asked if she had made any comments about the type of leave relator was taking.

We conclude that substantial evidence supports the ULJ's finding that relator did not give her employer a reasonable opportunity to address her concerns prior to quitting her employment.

Affirmed.