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Minn. Stat. § 480A.08, subd. 3 (2008).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A09-2198**

Karla Crowe,
Relator,

vs.

K & K Tire & Auto Center Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed September 14, 2010
Affirmed
Toussaint, Chief Judge**

Department of Employment and Economic Development
File No. 23099828-3

Karla A. Crowe, Foley, Minnesota (pro se relator)

LeAnne D. Miller, Rajkowski Hansmeier Ltd., St. Cloud, Minnesota (for respondent K & K Tire & Auto Center Inc.)

Lee B. Nelson, Britt K. Lindsay-Waterman, Department of Employment and Economic Development, St. Paul, Minnesota (for respondent Department of Employment and Economic Development)

Considered and decided by Toussaint, Chief Judge; Peterson, Judge; and Willis,
Judge.*

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

UNPUBLISHED OPINION

TOUSSAINT, Chief Judge

Relator Karla Crowe challenges the determination of the unemployment law judge (ULJ) that relator quit her employment. Because, when relator's employment ended, the decision to end it was relator's, we affirm.

DECISION

Whether an employee voluntarily quit employment is a question of fact. *Hayes v. K-Mart Corp.*, 665 N.W.2d 550, 552 (Minn. App. 2003), *review denied* (Minn. Sept. 24, 2003). "This court views the ULJ's factual findings in the light most favorable to the decision. This court also gives deference to the credibility determinations made by the ULJ. As a result, this court will not disturb the ULJ's factual findings when the evidence substantially sustains them." *Peterson v. Nw. Airlines, Inc.*, 753 N.W.2d 771, 774 (Minn. App. 2008) (citations omitted), *review denied* (Minn. Oct. 1, 2008).

Roger and Karen Kackley own respondent K & K Tire & Auto Center Inc. and The Other Bar and Grille. Relator worked for them as manager of both facilities. In May 2009, after other employees and customers complained about relator's use of alcohol, Roger Kackley told relator not to drink at the bar, either on duty or off duty.

One day in June 2009, relator worked at the bar until 6 p.m. and remained there, drinking, until 10:30 p.m. When Roger Kackley asked her why she was drinking, she became defiant. Relator's husband and the county sheriff were called, and she left with her husband rather than being taken to a detoxification facility.

Relator did not report to work the next day. Roger Kackley went to see her and told her not to return to work unless she got “help,” which, as she later testified, she understood to mean chemical dependency evaluation and treatment. Relator did not want chemical dependency evaluation and treatment and chose not to return to work.

She applied for unemployment benefits and was determined to be eligible because she had been discharged for reasons other than misconduct. Respondent appealed and, after a telephone hearing, the ULJ determined that relator had quit her employment without a good reason caused by her employer. Relator requested reconsideration, and the ULJ affirmed the decision.

Relator argues that she did not quit. But evidence substantially sustains the finding that, at the time relator’s employment ended, the decision to end it was relator’s. *See* Minn. Stat. § 268.095, subd. 2(a) (Supp. 2009) (“A quit from employment occurs when the decision to end the employment was, at the time the employment ended, the employee’s.”). Relator’s employer did not tell her she could not return to work; he told her specifically what she had to do to return to work. This would not support the inference that relator’s employer would not allow relator to work for him in any capacity. *See* Minn. Stat. § 268.095, subd. 5(a) (2008) (“A discharge from employment occurs when any words . . . by an employer would lead a reasonable employee to believe that the employer will no longer allow the employee to work for the employer in any capacity.”) Thus, within the meanings of the relevant statutes, relator was not discharged; she quit.

Relator argues that respondent unreasonably tried to control what relator did on her own time. But an employer does have some right over an employee’s off-the-job

conduct. *See* Minn. Stat. § 268.095, subd. 6(a) (Supp. 2009) (“Employment misconduct means any intentional . . . conduct, on the job *or off the job* (1) that displays clearly a serious violation of the standards of behavior the employer has the right to reasonably expect of the employee . . .”) (emphasis added). Evidence substantially sustains the ULJ’s finding that relator quit her employment.

Affirmed.