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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A16-1307**

Terrance Simon,
Relator,

vs.

Launch Technical Workforce Solutions, LLC,
Respondent,
Department of Employment and Economic Development,
Respondent.

**Filed March 6, 2017
Affirmed
Reyes, Judge**

Department of Employment and Economic Development
File No. 34630668-3

Terrance Simon, Nacogdoches, Texas (pro se relator)

Launch Technical Workforce Solutions, LLC, Oak Brook, Illinois (respondent employer)

Lee B. Nelson, Department of Employment and Economic Development, St. Paul,
Minnesota (for respondent Department)

Considered and decided by T. Smith, Presiding Judge; Johnson, Judge; and Reyes,
Judge.

UNPUBLISHED OPINION

REYES, Judge

Relator challenges the determination by an unemployment-law judge (ULJ) that he
does not qualify for unemployment benefits. Because relator quit his employment and

does not meet a statutory exception to ineligibility under Minn. Stat. § 268.095, subd. 1 (2016), we affirm.

FACTS

Relator Terrance Simon was employed by Launch Technical Workforce Solutions, LLC (Launch) when his significant other, S.B., suffered a serious health injury. On April 4, 2016, relator requested time off to care for S.B. and to drive her to Texas so that she could be with her family. Launch gave him time off until April 13. Relator did not report back to work on April 13. Due to car trouble, relator and S.B. arrived in Texas on April 15, much later than originally anticipated. While still in Texas, S.B.'s health condition deteriorated, and relator notified Launch on April 17 that he quit.

Relator filed an application for unemployment benefits with the Minnesota Department of Employment and Economic Development (DEED). On the application, he identified S.B. as his "fiancée." DEED determined that relator was ineligible for unemployment benefits. Relator appealed to a ULJ. The ULJ conducted a telephonic evidentiary hearing pursuant to Minn. Stat. § 268.105, subd. 1 (2016), where relator presented testimony and other evidence.

Relator testified that he quit Launch after initially requesting time off because his "fiancée's" health worsened and that it was necessary for him to stay with her in Texas. Relator further testified that quitting Launch had nothing to do with his employer, and that it was based solely on the issues surrounding his fiancée's health. The ULJ determined that relator did not satisfy any exception to his ineligibility for unemployment

benefits. Relator filed a request for reconsideration, which the ULJ denied. Relator then filed this writ of certiorari.

D E C I S I O N

I. The ULJ did not err in determining that relator is ineligible for unemployment benefits.

Relator argues that the ULJ erred in determining that he was ineligible for unemployment benefits. We disagree.

This court may affirm, reverse, modify, or remand a ULJ's decision if it is made upon unlawful procedure, affected by an error of law, unsupported by substantial evidence, or arbitrary and capricious. Minn. Stat. § 268.105, subd. 7(d) (2016). "In unemployment benefit cases, the appellate court is to review the ULJ's factual findings in the light most favorable to the decision and should not disturb those findings as long as there is evidence in the record that reasonably tends to sustain them." *Stagg v. Vintage Place Inc.*, 796 N.W.2d 312, 315 (Minn. 2011) (quotation omitted). "[W]e review the ULJ's ineligibility determination de novo." *Neumann v. Dep't of Emp't & Econ. Dev.*, 844 N.W.2d 736, 738 (Minn. App. 2014) (citation omitted).

Generally, an individual who quits employment is ineligible for unemployment benefits unless one of ten enumerated exceptions applies. Minn. Stat. § 268.095, subd. 1. Relator asserts that he satisfies two exceptions to ineligibility: (1) quitting for a good reason caused by his employer and (2) quitting to provide necessary care for an immediate family member. We address each in turn.

A. Relator did not quit for a good reason caused by his employer.

Relator argues that the ULJ erred in determining that he did not qualify for unemployment benefits because he quit for good reason caused by Launch. We are not persuaded.

“The determination that an employee quit without good reason attributable to the employer is a legal conclusion, which this court reviews de novo.” *Thao v. Command Ctr., Inc.*, 824 N.W.2d 1, 4 (Minn. App. 2012). The statute defines a good reason caused by the employer as “a reason: (1) that is directly related to the employment and for which the employer is responsible; (2) that is adverse to the worker; and (3) that would compel an average, reasonable worker to quit and become unemployed rather than remaining in the employment.” Minn. Stat. § 268.095, subd. 3(a) (2016). “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 caused by the employer for quitting.” *Id.*, subd. 3(c).

Relator alleges that he would not have quit had Launch given him 30 days off as he initially requested. But relator accepted the offer of time off and does not cite to any requirement of Launch to provide him 30 days off. As such, this reason cannot be interpreted as an adverse employer action that is directly related to his employment that would compel an average person to quit. Furthermore, even if relator initially qualified for the exception, he did not give Launch notice and a reasonable opportunity to correct

the adverse working condition. There is no error in the ULJ's determination that relator did not quit because of a good reason caused by Launch.

B. S.B. is not an immediate family member under Minn. Stat. § 268.095, subd. 1(7).

Relator next argues that the ULJ erred in determining that he did not quit his employment to provide necessary care for an immediate family member. We disagree.

An applicant who quits employment “in order to provide necessary care because of the illness, injury, or disability of an immediate family member of the applicant” is eligible for unemployment benefits. *Id.*, subd. 1(7). “This exception only applies if the applicant informs the employer of the medical problem and requests accommodation and no reasonable accommodation is made available.” *Id.* “Immediate family member” is defined as “an individual’s spouse, parent, stepparent, grandparent, son or daughter, stepson or stepdaughter, or grandson or granddaughter.” Minn. Stat. § 268.035, subd. 19(a) (2016).

Relator argues that his S.B. is his spouse and therefore fits within this definition of “immediate family member.” In evaluating this proposition, we construe the term spouse in accordance with its common and approved usage. *See* Minn. Stat. § 645.08 (1) (2014). The term “spouse” is commonly used to describe a person’s husband or wife by lawful marriage. *See Black’s Law Dictionary* 1621 (10th ed. 2014). We note that a person’s fiancée does not fall under the definition of immediate family member because a fiancée is not a spouse.

The documents and evidence relator submitted to DEED and the ULJ all identify S.B. as his fiancée. There is nothing in the record that would have allowed the ULJ to determine that S.B. is relator's spouse. Therefore, the ULJ did not err in determining that relator did not meet the exception because S.B. is not an "immediate family member."

II. The ULJ did not abuse his discretion in denying relator's request for reconsideration.

Relator further argues that the ULJ abused his discretion in denying relator's application for reconsideration. We disagree.

"A reviewing court accords deference to a ULJ's decision not to hold an additional hearing and will reverse that decision only for an abuse of discretion." *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 345 (Minn. App. 2006). "In deciding a request for reconsideration, the [ULJ] must not consider any evidence that was not submitted at the hearing, except for purposes of determining whether to hold an additional hearing." Minn. Stat. § 268.105, subd. 2(c) (2016). The ULJ must order a new hearing where (1) there was good cause for not having previously submitted new evidence and (2) such new evidence would likely change the outcome of the decision. *Id.*, subd. 2(c)(1). "Generally, 'good cause' means 'legally sufficient reason.'" *TC/Am. Monorail, Inc., v. Custom Conveyor Corp.*, 840 N.W.2d 414, 420 (Minn. 2013) (citing *Black's Law Dictionary* 266 (9th ed. 2009)).

In his application for reconsideration, relator asserted that his fiancée is, in fact, his common-law spouse and has been so for approximately the past 11 years. Relator further asserted that they "have lived together as husband and wife and [have] been

known as such by everyone who knows [them].” Relator also argues, for the first time on appeal, that the reason why he referred to S.B. as his “fiancée” was because he was unaware of what common-law marriage meant at the time of the hearing. Relator asserts that he established a common-law marriage with his wife in Texas. In order to prevail, relator must demonstrate that this new evidence would likely change the outcome of the decision. Minnesota recognizes a valid common-law marriage from another jurisdiction entered into after April 26, 1941, while residents of that state. *See Laikola v. Engineered Concrete*, 277 N.W.2d 653, 658 (Minn. 1979). In order to prove a common-law marriage under Texas law, the evidence must show that, “the man and woman agreed to be married and after the agreement they lived together in [Texas] as husband and wife and they represented to others that they were married.” Tex. Fam. Code Ann. § 2.401(a)(2) (2014).

In his application for reconsideration, relator made conclusory statements about the nature of his relationship S.B. but failed to provide evidence that they agreed to be married. Relator has lived in Minnesota since at least 2013 and it is unclear how he would prove that he and S.B. satisfy Texas requirement for common-law marriage. Therefore, relator has failed to establish that additional evidence regarding his relationship with S.B. would change the ULJ’s initial decision. Accordingly, because relator has failed to establish (1) good cause for his failure to submit evidence of his purported common-law marriage with S.B. and (2) that new evidence of this purported common-law marriage would likely change the outcome, we hold that the ULJ did not abuse his discretion in denying relator’s application for reconsideration.

As a final note, we credit and agree with DEED for acknowledging that relator “did the right thing” by taking care of S.B. However, in order to meet one of the exceptions to ineligibility for quitting employment, statutory requirements must be met, and equitable relief is not available in the context of unemployment benefits.

Affirmed.