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**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-0037**

Edward Wrazidlo,
Relator,

vs.

Lake Superior College,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed September 25, 2017
Affirmed
Bratvold, Judge**

Department of Employment and Economic Development
File No. 34892386-3

Edward Wrazidlo, Duluth, Minnesota (pro se relator)

Lake Superior College, Duluth, Minnesota (respondent)

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

Considered and decided by Bratvold, Presiding Judge; Rodenberg, Judge; and
Jesson, Judge.

UNPUBLISHED OPINION

BRATVOLD, Judge

In this unemployment-benefits appeal, relator challenges the unemployment-law judge's (ULJ) decision that he is ineligible for unemployment benefits because he did not have a good reason to quit caused by his employer. Relator asserts that (1) he had a good reason to quit because he felt unsafe at work; (2) he was denied a fair hearing because the ULJ relied on redacted evidence and a co-worker did not testify; and (3) the ULJ abused her discretion in declining to hold an additional evidentiary hearing based on his reconsideration request. We affirm.

FACTS

Between September 2011 and May 2016, relator Edward Wrazidlo worked as a lab assistant in the automotive department at Lake Superior College (college). In May 2016, the dean's secretary organized a meeting between Wrazidlo and the bookstore manager to discuss some issues that had created friction between their two departments.¹ Before the meeting, the secretary told Wrazidlo that the meeting was confidential and he should not "talk openly about this meeting to anyone," including his co-worker, M.C.

The dean's secretary, the bookstore manager, Wrazidlo, M.C., and an automotive instructor, B.M., attended the meeting on May 9. The secretary told M.C. that he had "no business being at the meeting," and asked Wrazidlo how M.C. had found out about the

¹ Wrazidlo testified that he and others in the automotive department believed that the bookstore was inflating prices and that the bookstore's student worker was involved. The bookstore manager believed that the automotive faculty failed to communicate with bookstore staff.

meeting. After M.C. left, Wrazidlo and the bookstore manager argued. The bookstore manager “raised her voice” and accused Wrazidlo of getting “into everything” and failing to respect the bookstore’s student worker. Wrazidlo then “walked out of the meeting.”

The next day, the bookstore manager sent an email to Wrazidlo and others in the automotive department discussing the bookstore’s student worker and communication problems. The manager stated that, going forward, she would limit the student worker’s responsibilities when dealing with the automotive department. Based on this email, Wrazidlo believed that the bookstore manager “probably” shared information from the confidential meeting with the student worker. Wrazidlo testified that he felt unsafe because the student worker had post-traumatic stress disorder (PTSD) and was known to have “little outrages and fit[s].”

On May 11, Wrazidlo met with the college’s security director. Wrazidlo told the security director about the May 9 meeting and said that “he had never felt so insulted in his life.” Wrazidlo told the security director that he felt unsafe around the student worker. The security director responded that “he thought someone else was handling the situation.”

On May 18, 2016, Wrazidlo quit his employment. His resignation letter stated that he was quitting because the bookstore manager had mistreated him. The next day, Wrazidlo filed a formal complaint with the college’s human resources department, claiming that the bookstore manager had violated workplace policies and had shared confidential information with the student worker. After an investigation, the college president concluded that the allegations were unsubstantiated, and that the bookstore manager had not violated any policies.

Wrazidlo filed for unemployment benefits, and respondent Minnesota Department of Employment and Economic Development (DEED) determined that he was eligible because he quit employment for a good reason caused by his employer. The college appealed, and the ULJ held a telephone hearing. Wrazidlo and M.C. testified on Wrazidlo's behalf, and a human-resources technician and the vice president of administration testified for the college. B.M., Wrazidlo's co-worker who attended the May 9 meeting, was scheduled to testify for Wrazidlo, but when the ULJ tried calling, B.M. did not answer the phone or return the ULJ's voice message.²

Wrazidlo testified that, before the May 9 meeting, he had "never really talked" to the bookstore manager, but explained that there were two things that the bookstore manager did that caused him to quit: (1) she "yell[ed] and scream[ed]" at him, and (2) she "probably" shared confidential information with the student worker. Wrazidlo testified that he "didn't feel safe around" the student worker, but also testified that he did not quit because of the student worker.

During the hearing, Wrazidlo requested to subpoena the college's written report from the complaint investigation. The college agreed to produce the report if it could redact names and other confidential information, citing data-practices law. Wrazidlo did not object to redaction. The ULJ granted Wrazidlo's request, allowed the college to redact the report, left the record open after the hearing, and later received a redacted version of the report.

² M.C. testified that B.M. likely did not answer the phone because he feared that the college would retaliate against him for testifying.

On October 26, 2016, the ULJ reversed the initial eligibility determination and concluded Wrazidlo did not quit for a good reason caused by his employer. Relying on the redacted investigation report and Wrazidlo's testimony, the ULJ found Wrazidlo quit his employment "because he felt mistreated" by the bookstore manager, and that he "did not quit because he felt threatened by another employee." The ULJ concluded the bookstore manager's conduct at the meeting was "less than ideal," but "one instance is insufficient to amount to an adverse working condition that would compel the average, reasonable worker to quit," especially because Wrazidlo had only "limited" interaction with the manager. The ULJ also determined Wrazidlo had not complained about the manager's conduct before he quit and thus did not allow the college a reasonable opportunity to correct the adverse working conditions. After Wrazidlo requested reconsideration, the ULJ affirmed her decision. Wrazidlo appeals by writ of certiorari.

D E C I S I O N

I. The ULJ did not err in concluding that Wrazidlo is ineligible for unemployment benefits.

An employee who quits employment is generally ineligible for unemployment benefits. *See* Minn. Stat. § 268.095, subd. 1 (2016). An exception exists when the employee quits because of a "good reason caused by the employer." *Id.*, subd. 1(1). This exception provides eligibility when the employee quits because of 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." *Id.*, subd. 3(a)(1)-(3). The third

element sets an objective standard of reasonableness and requires that the employee was compelled to quit by “extraneous and necessitous circumstances.” *Werner v. Med. Prof’ls LLC*, 782 N.W.2d 840, 843 (Minn. App. 2010) (quotation omitted), *review denied* (Minn. Aug. 10, 2010). Additionally, if an employee claims that he quit due to adverse working conditions, he “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.” Minn. Stat. § 268.095, subd. 3(c). Because the unemployment-compensation statute is “remedial in nature,” it “must be applied in favor of awarding” benefits. Minn. Stat. § 268.031, subd. 2 (2016).

We may reverse a ULJ’s decision or remand for further proceedings if the applicant’s substantial rights were prejudiced because the decision was made upon unlawful procedure, affected by legal error, or unsupported by substantial evidence. Minn. Stat. § 268.105, subd. 7(d)(3)-(5) (2016). Whether an employee had good cause to quit employment is a legal question that we review *de novo*. *Rowan v. Dream It, Inc.*, 812 N.W.2d 879, 883 (Minn. App. 2012). But the reason an employee quit is a fact question. *Embaby v. Dep’t of Jobs & Training*, 397 N.W.2d 609, 611 (Minn. App. 1986). We review the ULJ’s factual findings in the light most favorable to the decision to determine whether substantial evidence supports them. *Rowan*, 812 N.W.2d at 882. “[S]ubstantial evidence is more than a scintilla and is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Minn. State. Coll. Bd. v. Pub. Emp’t Relations Bd.*, 303 Minn. 453, 469, 228 N.W.2d 551, 560 (1975) (quotation omitted).

A. Substantial evidence supports the ULJ's determination of the reason Wrazidlo quit employment.

Wrazidlo argues he quit because the student worker made him feel unsafe at work, and the college "could not guarantee [his] safety." We are not persuaded even though we recognize some evidence supports Wrazidlo's assertion; for example, Wrazidlo's resignation letter stated he felt "unsafe" working at the college. In his responses to DEED's request-for-information questionnaire, Wrazidlo said he "did not feel safe" at the college without a firearm, and he "feared what [the student] might do or what actions this student with PTSD might take." Wrazidlo also testified he "didn't feel safe around" the student worker, and he told the security director on May 11 that he felt unsafe.

But we view the record evidence in the light most favorable to the ULJ's findings. *Rowan*, 812 N.W.2d at 882. The ULJ determined that Wrazidlo's safety concerns were not the *reason* he quit. Substantial evidence supports the ULJ's determination that the only reason Wrazidlo quit was because of the bookstore manager's inappropriate behavior during the May 9 meeting. Wrazidlo asserts in his appellate brief that his "breaking point was *directly related* to the aggressive behavior and reckless actions" of the bookstore manager, which he asserts gave him "good cause to resign." (Emphasis added.)

During the hearing, Wrazidlo repeatedly stated the bookstore manager's conduct is what caused him to quit. He testified the student worker had never threatened him. He also explained that the human-resources director had suggested he file a formal complaint against the student worker, but conceded that he "wouldn't do it" because his "issue" was

with the bookstore manager, not the student worker, and he was not “really concerned” about the student worker.

Because substantial evidence supports the ULJ’s finding that Wrazidlo quit because of the bookstore manager’s conduct, not because he felt threatened by the student worker, we conclude that the ULJ’s factual finding was not erroneous.

B. The ULJ did not err by finding that Wrazidlo did not quit for a good reason caused by his employer.

Wrazidlo challenges the ULJ’s finding that no reasonable worker would quit employment under his circumstances. Wrazidlo argues that the ULJ did not consider the bookstore manager’s “aggressive behavior.” But the ULJ expressly considered the bookstore manager’s conduct on May 9 and found that it was “less than ideal.”³ The ULJ concluded, however, that the manager’s “conduct on one instance” was insufficient to compel an average, reasonable worker to quit because Wrazidlo had very limited contact with the manager.

The ULJ’s finding is fully supported by the record and the applicable law. Wrazidlo testified, before the May 9 meeting, he had “never seen” the bookstore manager or talked to her. Moreover, Wrazidlo testified the argument was “heated,” and he was so “upset” that he “walked out” of the meeting. We conclude an average, reasonable worker would not be compelled to quit employment under these circumstances. *See Trego v. Hennepin Cty.*

³ In his appellate brief, Wrazidlo argues the dean’s secretary also engaged in “aggressive behavior.” This issue is not properly before this court because Wrazidlo did not sufficiently raise it during the administrative proceeding. In fact, when asked whether he complained about anyone other than the bookstore manager, Wrazidlo answered “[n]o.”

Family Day Care Ass’n, 409 N.W.2d 23, 26 (Minn. App. 1987) (stating that a “personality conflict” does not constitute good reason to quit); *Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 14 (Minn. App. 1986) (stating that “irreconcilable differences with others at work” does not constitute good reason to quit).

Wrazidlo submitted medical evidence that he suffers from anxiety and a “depressed mood” and appears to be assuming that the reasonable-worker analysis should be viewed through the lens of a reasonable worker with similar medical conditions. Even if we make this assumption, the evidence still does not support Wrazidlo’s position. *See generally* Minn. Stat. § 268.095, subd. 6(b)(1) (stating that “conduct that was a consequence of the applicant’s mental illness” is not employment misconduct); *White v. Univ. of Minn. Physicians Corp.*, 875 N.W.2d 351, 357 (Minn. App. 2016) (remanding to the ULJ for further proceedings because evidence indicated that relator’s “depression could affect the determination of employment misconduct”). In his answers to DEED’s request-for-information questionnaire, Wrazidlo stated he did not experience any symptoms until May 2016, his conditions did not preclude him from working, and he never asked the college for accommodations. In the same answers, Wrazidlo denied he quit because of his medical conditions. There is, moreover, no evidence that the college was aware of Wrazidlo’s anxiety or depressed mood. Thus, Wrazidlo’s medical conditions did not give him good cause to quit.

Wrazidlo also claims he had good cause to quit because the bookstore manager shared confidential information with the student worker. The evidence does not support this claim. Wrazidlo cites the May 10 email, which mentions the student worker and his

responsibilities in the bookstore, but it does not establish that the manager shared confidential information with the student, nor does it show that the student received the email. Wrazidlo testified that he was “not sure exactly what [the manager] shared” with the student, but that the student “probably” helped the manager send the email. We conclude an average, reasonable employee would not quit employment based on mere speculation. *See Rowan*, 812 N.W.2d at 884 (stating that a reason for quitting must be “substantial not trifling” to constitute good cause).

Wrazidlo appears to also challenge the ULJ’s finding that he did not complain about adverse working conditions. For purposes of this appeal, we assume that the bookstore manager’s conduct on May 9 was an “adverse working condition,” which means that Wrazidlo was required to: (1) complain about the conduct to the college, and (2) give the college a reasonable opportunity to remedy the situation. Minn. Stat. § 268.095, subd. 3(c). We will discuss each requirement in turn.

First, the ULJ found Wrazidlo did not complain to the college. But the record evidence and the ULJ’s other factual findings establish that Wrazidlo complained to the security director on May 11 when he reported that the bookstore manager had insulted him.⁴ We conclude that the ULJ erred in determining that Wrazidlo did not complain about the bookstore manager’s conduct before he quit.

⁴ DEED argues that Wrazidlo did not file a formal complaint until after he quit. But DEED points to no authority requiring a formal complaint. In fact, the college’s “incident reporting” policy allows employees to report work-related incidents to the security director. *Cf. Haugen v. Superior Dev., Inc.*, 819 N.W.2d 715, 724 (Minn. App. 2012) (concluding that employee complained about adverse working condition by meeting with company’s vice president to discuss problem).

Second, the ULJ found Wrazidlo did not give the college a reasonable opportunity to remedy adverse working conditions before quitting. Wrazidlo submitted his resignation letter five days after speaking with the security director. There is no evidence that Wrazidlo followed-up with the security director or anyone else at the college about his complaint. *See McLane v. Casa de Esperanza*, 385 N.W.2d 416, 417-18 (Minn. App. 1986) (concluding that employee quit prematurely because she quit while employer was still investigating her complaint). Thus, the ULJ did not err in concluding that Wrazidlo quit prematurely.

In sum, the ULJ had ample support for her determinations that an average, reasonable worker would not be compelled to quit based on the bookstore manager's isolated bad conduct, and that Wrazidlo did not give the college a reasonable opportunity to remedy the adverse working conditions. Because Wrazidlo did not have a good reason to quit caused by his employer, the ULJ did not err in concluding that Wrazidlo is ineligible for benefits.

II. The ULJ did not deny Wrazidlo a fair proceeding.

Wrazidlo argues the ULJ deprived him of a fair proceeding in two ways. First, he asserts the ULJ should not have relied on the investigation report because it redacted “vital information that would change the decision of the ULJ.”⁵ “An unemployment law judge

⁵ The college relied on data practices law as the basis for redacting confidential information from the report. As a member of Minnesota State Colleges and Universities, the college is subject to the Minnesota Government Data Practices Act (MGDPA). *See* Minn. Stat. §§ 13.01, subds. 1, 3 (stating that all “government entities” are subject to data practices laws), 13.02, subds. 7a, 17 (2016) (stating that “government entities” includes a “state agency”); *see also* Minn. Stat. § 136F.10 (2016) (designating all state colleges in Duluth,

may only use reliable, probative, and substantial evidence as a basis for decision.” Minn. R. 3310.2922. Additionally, the ULJ has a duty to assist all parties in developing the record. Minn. R. 3310.2921; *White*, 875 N.W.2d at 355-56.

Here, the ULJ stated that she relied in “large part” on the redacted investigation report, which summarizes the college’s findings regarding Wrazidlo’s May 19 complaint and the investigator’s interviews with Wrazidlo and two other employees. The report is heavily redacted, as DEED acknowledges. For instance, we are unable to discern which two employees were interviewed or what they said about the May 9 meeting. Even large portions of Wrazidlo’s interview are redacted. The ULJ was obligated to admit only reliable evidence, and we are troubled by the ULJ’s reliance on a heavily redacted document.

Even so, based on our review of the entire record, we conclude the ULJ’s decision to rely on the redacted report did not prejudice Wrazidlo’s substantial rights. *See Ywsyf v. Teleplan Wireless Servs., Inc.*, 726 N.W.2d 525, 530 (Minn. App. 2007) (concluding that ULJ’s failure to receive relevant evidence was harmless). The facts underlying Wrazidlo’s claim were generally undisputed and the testimony was consistent. Wrazidlo’s and M.C.’s

Minnesota as member colleges). Under the MGDPA, “[w]hen a document contains both public and nonpublic information, it is appropriate to redact the protected information and release the public information.” *Prairie Island Indian Cmty. v. Minn. Dep’t of Pub. Safety*, 658 N.W.2d 876, 888 (Minn. App. 2003). The ULJ lacked jurisdiction to determine whether the college violated the MGDPA by redacting public information. Minn. Stat. § 13.08 (2016) (stating that a person aggrieved by a government entity’s MGDPA violation may bring a civil action for damages); *see also* Minn. Stat. § 13.03, subd. 1 (2016) (stating that all government data “shall be public” unless statutorily designated as nonpublic). Thus, our review is limited to determining whether the ULJ erred by relying on the redacted investigation report.

testimony corroborated the report and provided context. In fact, the ULJ specifically found that Wrazidlo's testimony was consistent with the report.

Wrazidlo offers only speculation that "vital information" was redacted and would have changed the outcome of the case. But Wrazidlo did not object to the report, although he was given the opportunity to do so. *See* Minn. R. 3310.2912 (stating that, when the ULJ allows for late submissions of evidence, the "record must be left open for sufficient time for the submission of a written response"); Minn. R. 3310.2921 (stating that parties have the right to object to admission of exhibits during unemployment proceedings). Because we conclude the other evidence is sufficient to support the ULJ's findings and conclusions, Wrazidlo's substantial rights were not prejudiced by the ULJ's reliance on the redacted report.

Second, Wrazidlo argues he was denied a fair proceeding because B.M. did not testify, and the outcome would have been different had B.M. testified. The ULJ called B.M. on the telephone three times during the hearing and left a voicemail, but B.M. never called back. The ULJ also asked the college's witnesses whether they knew if B.M. was available, and the college responded that B.M., an instructor, was in class. After the last attempt to reach B.M., the ULJ gave each side an opportunity to identify what information B.M. would have provided. In response, Wrazidlo requested to subpoena the investigation report, and the ULJ granted his request.

Wrazidlo provides no reason why the outcome would have been different had B.M. testified. Wrazidlo and his witness, M.C., provided the only first-hand testimony of the May 9 meeting; the college's witnesses did not contradict that testimony, and the ULJ did

not discredit Wrazidlo or M.C. Wrazidlo also did not request to subpoena B.M., even though the ULJ gave him an opportunity to seek a continuance to subpoena witnesses at the beginning of the hearing. Minn. R. 3310.2914 (stating that the ULJ may compel witness testimony via subpoena). Accordingly, we conclude that B.M.’s failure to testify did not prejudice Wrazidlo’s substantial rights.

III. The ULJ did not abuse her discretion in declining to hold an additional evidentiary hearing based on new evidence.

In deciding a reconsideration request, a ULJ “must not consider any evidence that was not submitted at the hearing, except for purposes of determining whether to order an additional hearing.” Minn. Stat. § 268.105, subd. 2(c). A ULJ must order an additional evidentiary hearing if a party shows that evidence that was not submitted at the hearing: “(1) would likely change the outcome of the decision and there was good cause for not having previously submitted that evidence; or (2) would show that the evidence that was submitted at the hearing was likely false and . . . had an effect on the outcome of the decision.” *Id.*, subd. 2(c)(1)-(2). We review a ULJ’s decision to deny an additional evidentiary hearing for abuse of discretion. *Vasseei v. Schmitt & Sons Sch. Buses Inc.*, 793 N.W.2d 747, 750 (Minn. App. 2010).

On appeal, Wrazidlo argues reconsideration was appropriate because additional evidence established the college did not conduct a proper internal investigation, the bookstore’s student worker engaged in wrongdoing, and the college administration generally did not support its staff. The ULJ concluded the additional evidence did not require reconsideration or a hearing because it would not likely change the outcome of the

case, Wrazidlo had not established good cause for failing to produce the evidence during the first hearing, and the evidence did not show that the hearing testimony was likely false. We agree. After reviewing the evidence Wrazidlo submitted on reconsideration, we conclude the ULJ did not abuse her discretion in declining to hold an additional hearing.

Affirmed.