STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0903

Michael Noel,
Relator,

vs.

Lutheran Social Service of Minnesota,
Respondent,

Department of Employment and Economic Development,
Respondent.

Filed February 19, 2019
Affirmed
Halbrooks, Judge

Department of Employment and Economic Development
File No. 36199760-3

Michael Noel, Tallahassee, Florida (pro se relator)

Lutheran Social Service of Minnesota, St. Paul, Minnesota (respondent employer)

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

Considered and decided by Halbrooks, Presiding Judge; Larkin, Judge; and Bratvold, Judge.

UNPUBLISHED OPINION

HALBROOKS, Judge

In this certiorari appeal, relator challenges the decision of the unemployment-law judge (ULJ) that he is ineligible for unemployment benefits, arguing that the ULJ erred in concluding that he did not quit for a good reason caused by respondent employer. We affirm.

FACTS

In May 2016, relator Michael Noel began working as a direct-support professional for respondent Lutheran Social Service (LSS). Noel's job duties included the pickup, transport, and supervision of vulnerable adult clients. Noel routinely paid out of pocket for work-related expenses. An LSS policy required Noel to submit monthly expense reports to be approved by his supervisor. After approval, Noel received reimbursement for his expenses. In July 2017, Noel completed and submitted his expense report, but did not receive reimbursement. In late October, Noel emailed his supervisor, asking about this missing reimbursement. He also asked about paycheck withholdings. Noel did not receive a response. In November, Noel asked about the reimbursement in person. His supervisor gave him a blank expense report and asked him to complete it again. Noel did not complete the form and, instead, gave two weeks' notice of his intent to quit on December 22, 2017, effective January 5, 2018.

Noel applied for unemployment benefits, and respondent Minnesota Department of Employment and Economic Development (DEED) determined that he is ineligible to receive unemployment benefits. Noel appealed this determination. The ULJ held an evidentiary hearing and concluded that Noel is ineligible for benefits because he did not quit for a good reason caused by his employer. Noel requested reconsideration, and the ULJ affirmed its decision. This appeal follows.

D E C I S I O N

On review, we may affirm the decision of the ULJ or remand the case for further proceedings; or we may reverse or modify the decision if the relator's substantial rights may have been prejudiced. Minn. Stat. § 268.105, subd. 7(d) (2018).

Noel argues that the ULJ erred by determining that he did not quit for a good reason caused by his employer. The ULJ found that Noel quit because "his withholdings from his paychecks did not seem to be what they should be, he failed to receive his expense reimbursements for July 2017 in the amount of $350, the work environment was poor, and he failed to receive the guidance he needed."

Noel contends that LSS's failure to reimburse his July expenses was a good reason to quit caused by the employer. "The issue of whether an employee had good reason to quit is a question of law reviewed de novo." *Peppi v. Phyllis Wheatley Cmty. Ctr.*, 614 N.W.2d 750, 752 (Minn. App. 2000). A person who quits employment is ineligible to receive unemployment benefits unless a statutory exception applies. Minn. Stat. § 268.095, subd. 1 (2018). One exception allows a person who quit "because of a good reason caused by the employer" to receive unemployment benefits. *Id.*, subd. 1(1).

> A good reason caused by the employer for quitting is 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) (2018).

Whether a reason would compel an average, reasonable worker to quit is determined under an objective standard. *Werner v. Med. Prof'ls LLC*, 782 N.W.2d 840, 843 (Minn. App. 2010), *review denied* (Minn. Aug. 10, 2010). Before adverse working conditions may be considered a good reason caused by the employer for quitting, an employee subjected to such conditions must complain to the employer and give the employer a reasonable opportunity to correct the adverse working conditions. Minn. Stat. § 268.095, subd. 3(c) (2018).

Here, there is no dispute that LSS's failure to reimburse Noel $350 for his July expenses is directly related to his employment and something for which LSS is responsible. And the failure to reimburse Noel is something that is adverse to him. But the question is whether the failure to reimburse Noel is something that would cause an average, reasonable worker to quit and become unemployed rather than remain in employment.

Noel argues that, like the relator in *Rootes v. Wal-Mart Assocs., Inc.*, he quit rather than accept a substantial, adverse change in wages. 669 N.W.2d 416 (Minn. App. 2003). "Generally, a substantial pay reduction gives an employee good cause for quitting." *Thao v. Command Ctr., Inc.*, 824 N.W.2d 1, 5 (Minn. App. 2012) (quotation omitted). But unlike the relator in *Rootes*, Noel did not face a choice between quitting or accepting a lower salary. There is no dispute that Noel could have continued his employment at LSS. Noel did not experience a reduction in wages; he did not receive reimbursement for one month's work-related expenses. The LSS coordinator testified that Noel should have been reimbursed for July 2017 but had not been. Even if we were to construe the missing reimbursement as a reduction in wages, it does not rise to the level of a "substantial pay reduction." *Id.* We have held that a 19% reduction in wages is a good reason to quit, but a 10% reduction in wages is not. *Compare Danielson Mobil, Inc. v. Johnson*, 394 N.W.2d 251, 253 (Minn. App. 1986), *with Dachel v. Ortho Met, Inc.*, 528 N.W.2d 268, 270 (Minn. App. 1995). Here, Noel earned $13,200 from LSS in 2017. The missing $350 reimbursement equates to a 2.65% reduction. Accordingly, it would not be a substantial adverse change in wages amounting to a good reason to quit.

LSS acknowledged that not reimbursing Noel for the month of July 2017 was a mistake. When Noel brought it to his supervisor's attention, she provided him with a blank expense report form and asked him to complete it again. Noel chose not to do so. Instead, he quit his employment. The ULJ found that an average, reasonable person in Noel's position would have completed another reimbursement form. We agree. Accordingly, we conclude that this isolated problem did not amount to a good reason to quit employment.

Noel also argues that there was good reason for him to quit caused by LSS because of a poor working environment, a lack of guidance, and concerns about paycheck withholdings. But Noel did not provide details or evidence to support his assertion regarding withholdings. With respect to Noel's argument about the poor working environment, Noel stated that he complained at staff meetings about driving in the cold weather. Noel conceded that, while he was bothered by his supervisor's lack of guidance, he had not raised this issue before he quit. The ULJ found that none of these reasons "taken separately or together" amounted to a good reason caused by the employer to quit. We agree. Because Noel did not quit for a good reason caused by LSS, we conclude that the ULJ did not err by determining that he is ineligible to receive unemployment benefits.

Finally, Noel alleges that multiple procedural errors by the ULJ resulted in an unfair hearing. A ULJ has "a duty to reasonably assist pro se parties with the presentation of the evidence and the proper development of the record." *White v. Univ. of Minn. Physicians Corp.*, 875 N.W.2d 351, 355-56 (Minn. App. 2016) (quotation omitted). But pro se litigants "are generally held to the same standards as attorneys and must comply with court rules." *Fitzgerald v. Fitzgerald*, 629 N.W.2d 115, 119 (Minn. App. 2001).

Noel asserts that the ULJ's determination used facts unsupported by the record, that the record was not fully developed, and that the ULJ "improperly regarded the burden of proof." After a thorough review of the record, we conclude that these arguments are without merit. The ULJ's factual findings are supported by the record. He appropriately developed the record by asking open-ended questions and clarifying conflicting or confusing testimony. The ULJ did not improperly impose a burden of proof, but rather made a determination based on the evidence in the record. Accordingly, the ULJ did not commit any procedural errors.

Affirmed.