

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0503**

Michael DePaul,
Relator,

vs.

Department of Veterans Affairs/Veterans Health Administration,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed February 22, 2021
Affirmed
Worke, Judge**

Department of Employment and Economic Development
File No. 37685174-4

Michael DePaul, Eagan, Minnesota (pro se relator)

Department of Veterans Affairs/Veterans Health Administration, Fort Snelling, Minnesota
(respondent employer)

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

Considered and decided by Worke, Presiding Judge; Reyes, Judge; and Jesson,
Judge.

NONPRECEDENTIAL OPINION

WORKE, Judge

Relator challenges the decision of an unemployment-law judge (ULJ) that relator is ineligible for unemployment benefits because he quit his employment without a good reason caused by his employer. We affirm.

FACTS

In November 2019, respondent Department of Employment and Economic Development (DEED) sent relator Michael DePaul a determination of ineligibility for unemployment benefits because he quit his employment without a good reason caused by respondent-employer Department of Veterans Affairs/Veterans Health Administration. DePaul appealed, and a ULJ held a telephone hearing.

DePaul testified that he began employment in August 2017 and quit his security-officer position in October 2019. DePaul claimed that he encountered harassment and three incidents made work “intolerable.” The first incident occurred in early 2019 when DePaul was investigated for allegedly threatening a coworker. DePaul stated that he was cleared of wrongdoing, but another coworker spread rumors that DePaul did threaten his coworker, and as a result, people did not want to work with him and he did not get a job that he applied for.

The second incident occurred in August 2019 when DePaul attempted to help coworkers come forward with complaints against another officer. The union president tried to intimidate DePaul by leaning over him and loudly stating, “none of the officers like you and none of them want to work with you.”

The third incident occurred in September 2019 when DePaul was investigated for making threatening statements to the supervisor of Equal Employment Opportunity (EEO). DePaul told the investigator that he had met with the EEO supervisor and expressed that he wanted out of the department because he could not “take this anymore” and was “angry as can be.” According to DePaul, he also told the EEO supervisor that she did not do anything for veterans, which he is, and should be ashamed of herself. DePaul claimed that the investigator cleared him. But the next day, DePaul’s supervisor, Lieutenant Sutter, called DePaul and left him with the impression that he was still under investigation and told him that he needed to talk to Chief Weber, Lieutenant Sutter’s supervisor.

DePaul stated that he called Chief Weber and asked about the investigation. Chief Weber directed DePaul to report to work and discuss it in person. DePaul stated that he did not “feel comfortable doing that.” Because DePaul refused to return to work without knowing what the investigation was about, and Chief Weber declined to discuss the matter over the phone, DePaul never returned to work.

The ULJ asked DePaul if he attempted to have a third party join him during a meeting with Chief Weber. DePaul responded that he could not get a union official because of the incident that occurred with the union president in August, he did not trust Lieutenant Sutter, and when he reached out to human resources, he was told, “I’ll pass this information along to Chief Weber.” The ULJ asked DePaul why he feared Chief Weber. DePaul responded that Chief Weber has “done some dirty things” and he “could not chance going in” to speak to her because she could have “arrested [him] on the spot,” although she had no reason to arrest him because he has a “perfect work record, flawless.”

The ULJ decided that DePaul was ineligible for unemployment benefits because there was no showing that his work environment was so adverse as to cause the average, reasonable worker to quit and become unemployed rather than remain in employment. DePaul requested reconsideration, but the ULJ affirmed the decision. DePaul then filed a petition for writ of certiorari appealing the ULJ's decision.

DECISION

DePaul challenges the ULJ's decision that he quit employment without a good reason caused by his employer. On review, this court may "reverse or modify the [ULJ's] decision if the substantial rights of the [relator] may have been prejudiced because the findings, inferences, conclusion, or decision" violate constitutional provisions, exceed the department's statutory authority, were made after an unlawful procedure, are based on an error of law, are unsupported by the record evidence, or are arbitrary or capricious. Minn. Stat. § 268.105, subd. 7(d) (2020).

This court reviews the ULJ's factual findings in the light most favorable to the decision and will not disturb those findings when the evidence substantially supports them. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). "Credibility determinations are the exclusive province of the ULJ and will not be disturbed on appeal." *Id.* at 345. But "[t]he determination that an applicant is ineligible for unemployment benefits based on the facts of the case is reviewed de novo." *Posey v. Securitas Sec. Servs. USA, Inc.*, 879 N.W.2d 662, 664 (Minn. App. 2016).

Generally, an employee who quits employment is ineligible for unemployment benefits. Minn. Stat. § 268.095, subd. 1 (2020). But an employee is eligible for benefits

if he quit because of a good reason caused by the employer. *Id.*, subd. 1(1). A good reason caused by the employer 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 (2020).

Here, the ULJ determined that DePaul’s reason for quitting—an unpleasant work environment—was related to the employment, but was not so adverse as to cause the average, reasonable worker to quit and become unemployed rather than remaining in employment.

The ULJ determined that the first incident concerning the rumors amounted to a personality conflict with a coworker. DePaul argues that this characterization minimizes the situation. But DePaul testified that the person circulating the rumors was just a coworker and all she did was spread rumors. Whether an employee’s issue constitutes a good reason to quit is judged by “the standard of reasonableness as applied to the average man or woman, and not to the supersensitive.” *Nichols v. Reliant Eng’g & Mfg., Inc.*, 720 N.W.2d 590, 597 (Minn. App. 2006) (quotation omitted). And conflicts with coworkers, including a personality conflict, do not, without more, constitute a good reason to quit caused by the employer. *Trego v. Hennepin Cty. Fam. Day Care Ass’n*, 409 N.W.2d 23, 23-24 (Minn. App. 1987) (stating that personality conflict did not constitute good reason to quit); *Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 14 (Minn. App. 1986) (stating that “irreconcilable differences” with coworkers did not constitute good reason to quit).

The ULJ similarly determined that, in the second incident, the union president made an inappropriate statement, but DePaul failed to show that the union president “was against [him] or would not assist him.” Undoubtedly hearing that coworkers do not like you is unpleasant, especially if delivered in the way DePaul described, but it does not constitute a good reason to quit caused by the employer. This, again, is a personality conflict that may have provided DePaul a good personal reason to quit, but a good personal reason does not necessarily demonstrate a good reason caused by the employer. *See Werner v. Med. Prof'ls LLC*, 782 N.W.2d 840, 842 (Minn. App. 2010), *review denied* (Minn. Aug. 10, 2010).

Lastly, regarding the third incident that involved the investigation into the EEO supervisor's report, the ULJ found that the EEO supervisor “may have felt nervous as a result of [DePaul's] conduct” because he told her that he was “angry as can be,” and that she should be “ashamed” of herself. The ULJ determined that the EEO supervisor had a right to report her concerns, and the employer had an obligation to investigate.

DePaul testified that he had been cleared, but based on Chief Weber's involvement, DePaul may not have been cleared. And instead of cooperating, DePaul refused to return to work and meet with Chief Weber. If, as DePaul asserted, he had no reason to be “arrested on the spot,” it seems an irrational fear to refuse to comply with a supervisor's request to report to work and discuss a matter. DePaul argues that Chief Weber opened a new investigation after he was cleared because she was friends with the EEO supervisor. But there is no evidence supporting this claim, and even if this claim is accurate, it may be Chief Weber's responsibility to follow up on investigations.

Finally, the ULJ found that parts of DePaul's testimony were "unlikely and farfetched." For example, it was not believable that DePaul would be arrested on the spot if he met with Chief Weber. DePaul argues that his allegations are not "farfetched" because the federal government is investigating and "[t]hey seem to feel" that DePaul was in "a hostile work environment." But this court defers to the ULJ's credibility determinations. *See Skarhus*, 721 N.W.2d at 344. And an eligibility-for-unemployment-benefits determination is a different situation than a federal investigation into a hostile work environment. Substantial evidence supports the ULJ's finding that DePaul quit his employment without a good reason caused by his employer and was ineligible for unemployment benefits.

Affirmed.