

*This opinion is nonprecedential except as provided by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
A21-0806**

Clarence Walker,
Relator,

vs.

Knutson Counseling & Seminars, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed January 3, 2022
Affirmed
Reilly, Judge**

Department of Employment and Economic Development
File No. 41022735-3

Clarence Walker, New London, Minnesota (pro se relator)

Knutson Counseling & Seminars, Inc., Willmar, Minnesota (respondent employer)

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

Considered and decided by Reilly, Presiding Judge; Johnson, Judge; and Jesson,
Judge.

NONPRECEDENTIAL OPINION

REILLY, Judge

Relator challenges the decision of an unemployment-law judge that he is ineligible for unemployment benefits because he quit his job and no statutory exception applies. We affirm.

FACTS

Relator Clarence Walker resigned from his job with respondent Knutson Counseling and Seminars (the employer). Relator applied for unemployment benefits through respondent Department of Employment and Economic Development (DEED). Both relator and the employer submitted unemployment insurance information to DEED which described why relator resigned from employment. DEED determined that relator voluntarily retired from his employment; and since continuing suitable work was still available to him, he was not eligible for unemployment benefits. Relator appealed DEED's determination of ineligibility. The matter proceeded to a hearing before an unemployment-law judge (ULJ). We first summarize the facts based on the testimony presented at the hearing about the circumstances of relator's resignation. Then we analyze the ULJ's determinations after the hearing.

Relator worked as a part-time therapist for the employer from February 15, 2018 to April 3, 2020. Relator typically worked Tuesdays and Thursdays for about 16 hours a week. In March 2020, relator became increasingly concerned about COVID-19 exposure in the workplace because he suffers from several medical conditions that would make him particularly susceptible to health complications if exposed to the virus. On March 26,

relator spoke with the employer about his health concerns and asked about the option to conduct telehealth counseling sessions. The employer told relator that he could not offer online or telehealth counseling sessions under the employer's licensing provisions. The employer informed relator that it did not know what options would be available in the future, but at the time, the employer still expected relator to report in person to work.

The parties dispute what happened following the conversation on March 26. Relator's supervisor testified that during the March 26 conversation, she told relator that he was eligible to take a leave of absence due to COVID-19 like one of his coworkers had chosen to do. The supervisor testified that later the same day, relator accepted the offer to take a leave of absence effective immediately. But relator testified that after learning that telehealth services were not an option for him, he took the week of March 26 to April 3 to consider what would be best for his health. Relator stated that the employer did not offer a leave of absence, and he did not ask for one.

On April 3, relator delivered a letter of resignation to the employer effective immediately. The letter stated that relator was concerned about potential harm from COVID-19. Relator told the ULJ that "the COVID-19 epidemic forced [his] hand, and [his] quit was involuntary." The employer accepted relator's resignation. Several weeks later the employer's licensing agency allowed the employer to begin providing telehealth services.

Following the hearing, the ULJ issued findings of fact and a decision, determining that relator was ineligible to receive unemployment benefits. The ULJ noted the conflicting testimony between relator and his supervisor and found "[the supervisor's]

more direct and detailed testimony regarding these conversations, which was supported by evidence showing that [relator] did not work after March 26, 2020, to be more likely than [relator's] less responsive testimony to the contrary.”

The ULJ noted that an applicant who quits employment is ineligible for unemployment benefits unless an exception applies. The ULJ considered two exceptions: a quit for medical necessity and a quit for a good reason caused by the employer. The ULJ determined that the medical-necessity exception did not apply because the employer offered relator a reasonable accommodation before relator quit. The ULJ also determined that the good-reason-caused-by-employer exception did not apply because the employer did not treat relator adversely and a reasonable worker would not be compelled to quit employment. The determination led to an overpayment of more than \$3,000.

Relator requested reconsideration, arguing that he did not choose to retire but instead needed to resign because of potential exposure to COVID-19. The ULJ issued its order affirming the ineligibility determination.¹ The ULJ again found that the original determination was factually and legally correct.

Relator appeals by certiorari.

DECISION

Relator challenges the ULJ's determination that relator is not eligible for unemployment benefits because he does not meet the quit exceptions under Minn. Stat. § 268.095, subd. 1(1), (7) (2020). This court reviews the ULJ's factual findings in the light

¹ The ULJ reissued his decision to reflect the evidence that relator did work after March 26, 2020. The correction did not change the outcome of the decision.

most favorable to the decision. *Wilson v. Mortg. Res. Ctr., Inc.*, 888 N.W.2d 452, 460 (Minn. 2016). When reviewing the ULJ's decision, this court may affirm the decision or remand for further proceedings. Minn. Stat. § 268.105, subd. 7(d) (2020). Alternatively, we may reverse or modify the ULJ's decision when the relator has been prejudiced because the decision, among other things, is not supported by substantial evidence in the record. *Id.*, subd. 7(d)(5). Whether the ULJ's findings show that the applicant meets a statutory exception to ineligibility for quitting employment is a question of law, which this court reviews de novo. *See Peppi v. Phyllis Wheatley Cmty. Ctr.*, 614 N.W.2d 750, 752 (Minn. App. 2000) (applying de novo review to determine whether applicant met exception for a quit for good reason caused by employer).

I. The ULJ did not err by determining that relator did not meet the medical-necessity exception.

Relator first contends that he meets the medical-necessity exception and so he challenges the ULJ's determination that he was ineligible for unemployment benefits. Relator maintains that the employer did not offer him a leave of absence as an accommodation. An applicant who voluntarily quits employment is disqualified from receiving unemployment benefits unless "the applicant's serious illness or injury made it medically necessary that the applicant quit." Minn. Stat. § 268.095, subd. 1(7). This exception only applies, however, if the applicant informs the employer of the medical problem, requests an accommodation, and no reasonable accommodation is made. *Id.*

Here, the ULJ determined that relator did not meet the medical-necessity exception because the employer offered relator a reasonable accommodation in the form of an unpaid

leave of absence until the employer's licensing agency approved telehealth counseling.² The ULJ noted that the parties provided conflicting testimony but found the supervisor's testimony to be more persuasive and supported by evidence. Because this is an issue of credibility, this court must defer to the judgment of the ULJ. *Ywsyf v. Teleplan Wireless Servs., Inc.*, 726 N.W.2d 525, 527 (Minn. App. 2007) ("This court will defer to [a ULJ's] credibility determinations . . . that are supported by substantial evidence.") (syllabus by the court); *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 345 (Minn. App. 2006) ("Credibility determinations are the exclusive province of the ULJ and will not be disturbed on appeal.").

The record supports the ULJ's finding that the employer offered relator an unpaid leave of absence. Relator's supervisor testified that she offered him a leave of absence because of COVID-19 and that relator accepted the offer effective immediately. The supervisor testified that relator did not work his scheduled shifts over the week of March 26 through April 2 because he was on a leave of absence. During that week, relator called his supervisor and informed her of his intent to resign due to concerns of COVID-19. Relator then returned to work on April 3 to complete remaining office work and submit his formal letter of resignation. The record therefore supports the finding that the employer offered relator a reasonable accommodation and relator decided to quit anyway. Thus, the

² On appeal, relator does not argue that an unpaid leave of absence would not have been a reasonable accommodation for him until the company learned more about options for telehealth. Instead, relator argues that an unpaid leave of absence was never offered to him. We therefore do not address whether an unpaid leave of absence is a reasonable accommodation.

ULJ did not err by determining that relator did not satisfy all the requirements of the medical-necessity exception.

II. The ULJ did not err by determining that relator did not meet the exception for a quit for a good reason caused by the employer.

Relator also argues that the ULJ erred by determining that relator did not meet the exception for a quit because of a good reason caused by the employer under Minn. Stat. § 268.095, subd. 1(1). To satisfy this exception, the applicant's reason for quitting must be one that: (1) is directly related to the employment and for which the employer is responsible, (2) is adverse to the worker, and (3) would compel an average, reasonable worker to quit and become unemployed rather than remain in the employment. *Id.*, subd. 3 (2020). "To compel" is "to cause or bring about by force, threats, or overwhelming pressure." *Werner v. Med. Pros. LLC*, 782 N.W.2d 840, 843 (Minn. App. 2010) (quoting *Black's Law Dictionary* 321 (9th ed. 2009)), *rev. denied* (Minn. Aug. 10, 2010). The standard is an objective, reasonable-person standard. *Id.* It applies "to the average man or woman, and not to the supersensitive." *Nichols v. Reliant Eng'g & Mfg.*, 720 N.W.2d 590, 597 (Minn. App. 2006).

Relator contends that he meets this exception because continuing his employment would have threatened his physical health and wellbeing. The ULJ found that the record did not "support a finding that the average, reasonable worker would be compelled to quit and become unemployed given [the employer's] treatment of [relator]. [Relator] quit without a good reason caused by the employer."

The record supports the ULJ's determination that relator did not satisfy the good-reason-caused-by-employer exception. The employer did not cause unsafe working conditions because of COVID-19. And the record shows that the employer was actively working toward telehealth options that would offer relator accommodations to avoid direct contact with patients. There is no record evidence that supports relator's contention that the employer compelled or forced relator to work in unsafe and unsuitable conditions. Instead, the record reveals that the employer actively offered relator a leave of absence and was working to provide a safer work environment for all its employees. Thus, relator failed to show that he quit for a good reason caused by the employer.

For these reasons, the ULJ did not err by determining that relator was not entitled to unemployment benefits because he quit his employment and no statutory exception applies.

Affirmed.