

*This opinion is nonprecedential except as provided by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
A21-1045**

Tyler Toenjes,
Relator,

vs.

SpartanNash Associates, LLC,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed May 16, 2022
Affirmed
Smith, Tracy M., Judge**

Department of Employment and Economic Development
File No. 45728921-3

Tyler Toenjes, Sauk Rapids, Minnesota (self-represented relator)

David M. Wilk, Larson King, LLP, St. Paul, Minnesota (for 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 Smith, Tracy M., Presiding Judge; Connolly, Judge; and
Kirk, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

Relator Tyler Toenjes challenges the decision of an unemployment-law judge (ULJ) that he was ineligible for unemployment benefits because he quit his job and does not meet a statutory exception to ineligibility based on a quit. Because none of the statutory exceptions to ineligibility based on a quit apply, we affirm.

FACTS

Toenjes started working as an order selector for respondent SpartanNash Associates, LLC, a grocery-distribution company, on December 7, 2020. Toenjes worked his last day with SpartanNash on January 24, 2021. He then stopped coming to work and missed three shifts. Toenjes told SpartanNash's HR partner that the job did not fit his schedule and daycare needs and that he was quitting. Toenjes did not request any accommodation from SpartanNash before quitting.

Toenjes then requested unemployment benefits, claiming that he quit because the job was not working out, he was not making enough money, the job was not a good fit, and his children's daycare was not working out. Respondent Minnesota Department of Employment and Economic Development (DEED) administratively determined that he was not eligible for benefits because he did not request time off or other accommodation from SpartanNash after losing childcare. Toenjes appealed. Following an evidentiary hearing, the ULJ determined that Toenjes was ineligible for benefits.

Toenjes requested reconsideration of the ULJ's decision. The ULJ affirmed the previous decision.

Toenjes appeals by writ of certiorari.

DECISION

An applicant who quit employment is ineligible for unemployment benefits unless a statutory exception applies. Minn. Stat. § 268.095, subd. 1 (2020). Here, the ULJ determined that Toenjes did not meet an exception.

We may reverse or modify a ULJ's decision if the relator's "substantial rights . . . may have been prejudiced." Minn. Stat. § 268.105, subd. 7(d) (2020). We review factual findings, which must be substantially supported by the record, in the light most favorable to the ULJ's decision; we review a ULJ's determination that an applicant is ineligible for unemployment benefits, based on factual findings, de novo. *Fay v. Dep't of Emp. & Econ. Dev.*, 860 N.W.2d 385, 387 (Minn. App. 2015); *see also Peppi v. Phyllis Wheatley Cmty. Ctr.*, 614 N.W.2d 750, 752 (Minn. App. 2000) (applying the de novo standard to determination of ineligibility based on a quit).

The ULJ made the following factual findings. Toenjes quit his job. He did so to stay home with his preschool-aged children after they had difficulty in a daycare setting. Toenjes and his wife decided that it would be better for his wife to continue working and for Toenjes to stay home to take care of the children. Toenjes did not request an accommodation from SpartanNash before quitting.

Toenjes argues that, despite quitting, he is eligible for unemployment benefits because of a statutory exception. He argues that he is eligible because his job with SpartanNash was not working out, was not in his normal field of work, and had hours that did not work for him. He additionally argues that he feared SpartanNash was going to let

him go so it was in his best interests to leave. Though Toenjes does not cite to the applicable law, there are three statutory exceptions under Minnesota law that his assertions potentially invoke: the unsuitable-employment exception, the notification-of-a-layoff exception, and the loss-of-childcare exception. We address each in turn. *See* Minn. Stat. § 268.095, subd. 1(3), (6), (8).

Unsuitable-Employment Exception

Toenjes asserts that his job with SpartanNash “just wasn’t working out” because it wasn’t in his normal field of work, and the schedule was not working for him. An applicant for unemployment benefits may be eligible for benefits, despite quitting, if “the applicant quit the employment within 30 calendar days of beginning the employment and the employment was unsuitable.” Minn. Stat. § 268.095, subd. 1(3).

This exception does not apply here. First, the ULJ found that Toenjes quit because of childcare issues, and that finding has substantial support in the record. Second, consistent with the record, the ULJ found, and Toenjes does not challenge, that Toenjes began working for SpartanNash on December 7, 2020, and quit on January 24, 2021; his period of employment was therefore longer than 30 calendar days. It is thus irrelevant whether the SpartanNash job was suitable for Toenjes because he did not quit within the first 30 days of employment, as is required to invoke the exception described in Minn. Stat. § 268.095, subd. 1(3).

Notification-of-a-Layoff Exception

Toenjes also asserts that he “felt like [SpartanNash was] just going to let [him] go anyway.” An applicant for unemployment benefits may be eligible for benefits, despite

quitting, when “the employer notified the applicant that the applicant was going to be laid off because of lack of work within 30 calendar days.” Minn. Stat. § 268.095, subd. 1(6).

This exception does not apply here. First, the ULJ found that Toenjes quit because of childcare issues. Second, the record contains no evidence that Toenjes was notified that he would be laid off or that he had any warnings or negative performance reviews. Instead, Toenjes testified that he felt like he would be laid off because his productivity was slower than SpartanNash’s standards. That is not enough to meet this exception, which requires notification of a layoff. *See id.*

Loss-of-Childcare Exception

Finally, although Toenjes does not mention his childcare issues in his appellate brief, we address the matter anyway because it was the focus of the evidentiary hearing and the ULJ’s decision. An applicant for unemployment benefits may be eligible for benefits, despite quitting, when “the applicant’s loss of child care for the applicant’s minor child caused the applicant to quit the employment, provided the applicant made reasonable effort to obtain other child care and requested time off or other accommodation from the employer and no reasonable accommodation is available.” Minn. Stat. § 268.095, subd. 1(8).

The ULJ found that Toenjes chose to stay home to take care of his children because they were not doing well in childcare. This finding is supported by the record. And, based on this finding, the exception does not apply for two reasons. First, as the ULJ correctly concluded, the statute requires the “loss of child care”; Toenjes did not lose childcare even though it may have been important for his family that he quit to take care of the children at

home. Second, even if Toenjes had experienced a loss of childcare, the exception requires the applicant to have requested “time off or other accommodation” from the employer. *Id.* Nothing in the record shows, and Toenjes has not argued, that he requested an accommodation from SpartanNash.

Because none of the statutory exceptions to ineligibility due to quitting apply, the ULJ did not err by determining that Toenjes was ineligible for unemployment benefits.

Affirmed.