

*This opinion is nonprecedential except as provided by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
A21-1067**

Tyrone L. Hubbard,
Relator,

vs.

Preferred Concrete Construction, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed May 23, 2022
Affirmed
Johnson, Judge**

Department of Employment and Economic Development
File No. 158039914

Tyrone L. Hubbard, Buffalo, Minnesota (*pro se* relator)

Preferred Concrete Construction, Inc., Big Lake, Minnesota (respondent employer)

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

Considered and decided by Reyes, Presiding Judge; Johnson, Judge; and Cochran,
Judge.

NONPRECEDENTIAL OPINION

JOHNSON, Judge

Tyrone L. Hubbard was employed by Preferred Concrete Construction, Inc., as a
masonry foreman. In late February 2020, he gave a two-week notice of his resignation.

An unemployment-law judge concluded that Hubbard is ineligible for unemployment benefits because he quit his job and did not quit for a good reason caused by the employer. We affirm.

FACTS

Hubbard was employed by Preferred Concrete Construction, Inc. (PCC) from April 2019 to March 2020. On Friday, February 28, 2020, he gave PCC a handwritten note stating, “Please consider this my two-week notice to end employment.” On Wednesday, March 11, 2020, Hubbard was expected to repair deficient work that he had done at a jobsite. He did not appear for work and did not call in to explain his absence. PCC was unable to contact him that day. On the following day, Thursday, March 12, 2020, Hubbard again did not appear for work or call in. PCC decided to terminate Hubbard’s employment. His supervisor left him a voice-mail message informing him of this decision and requesting the return of all PCC property. In response, Hubbard sent angry text and e-mail messages in which he threatened the owner of PCC and his family.

Hubbard applied for unemployment benefits with the department of employment and economic development. He stated in his application that he was unemployed because of the COVID-19 pandemic. On that basis, the department determined that he was eligible for unemployment benefits and began paying him benefits in April 2020.

In April and May 2021, the department sought additional information from both Hubbard and PCC. After reviewing Hubbard’s file, the department determined that he is ineligible for benefits on the grounds that he was not unemployed because of the COVID-

19 pandemic and that he was discharged for employment misconduct. Hubbard filed an administrative appeal of that determination.

An unemployment-law judge (ULJ) conducted an evidentiary hearing in June 2021. PCC's witness testified about the company's concerns about the quality of Hubbard's work and his belligerent conduct toward co-workers. PCC's witness also testified that Hubbard angrily gave his two-week notice of resignation on February 28, 2020, after his supervisor refused his request for a personal loan from PCC. Hubbard, in contrast, testified that he quit his employment because PCC had failed to pay him at the wage rate required by federal prevailing-wage laws. PCC's witness acknowledged that Hubbard had expressed concerns about his wage rate but denied that PCC had underpaid him.

The ULJ issued a written decision in which she found that Hubbard quit his employment and did not quit for a good reason caused by the employer. The ULJ found that Hubbard was "not a credible witness because he was extremely rude and combative toward everyone present," "consistently cursed during the hearing," and "refused to answer several questions." Conversely, the ULJ found PCC's witness to be "detailed and forthcoming" and found her testimony to be "consistent and more plausible." Accordingly, the ULJ determined that Hubbard is ineligible for unemployment benefits because he quit his employment without a good reason caused by the employer. Hubbard requested reconsideration, and the ULJ affirmed her earlier decision.

Hubbard appeals by way of a writ for certiorari. He has filed a four-page, *pro se* brief, in which he makes three arguments.

DECISION

I. Reason for Quit

Hubbard first argues that the ULJ erred by finding that he did not quit for a good reason caused by the employer. He asserts that he quit his employment on February 28, 2020, for a valid reason: because PCC was not paying him and others the wage rates required by federal law.

A person who quits employment generally is ineligible for unemployment benefits. Minn. Stat. § 268.095, subd. 1 (2020). But an exception exists if the employee “quit the employment 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(a). This exception to the quit rule “must be applied to the specific facts of each case.” *Id.*, subd. 3(b).

The ULJ considered Hubbard’s testimony on this issue but found that “a preponderance of the evidence does not support his contention.” Instead, the ULJ found that Hubbard quit “because PCC declined to extend him another personal loan.” The ULJ explained that Hubbard “demonstrated an extremely hot temper throughout his employment and during the appeal hearing” and that “[t]he evidence demonstrates that he was upset when PCC denied the loan, which he needed to move.”

We review a ULJ’s decision denying unemployment benefits to determine whether the findings and conclusions are affected by an error of law, are unsupported by substantial

evidence in the record, or are arbitrary and capricious. Minn. Stat. § 268.105, subd. 7(d) (2020). We generally defer to a ULJ's factual findings and review them in the light most favorable to the decision. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). We will not reverse a ULJ's factual findings "as long as there is evidence in the record that reasonably tends to sustain them." *Stagg v. Vintage Place, Inc.*, 796 N.W.2d 312, 315 (Minn. 2011). Furthermore, "[c]redibility determinations are the exclusive province of the ULJ." *Skarhus*, 721 N.W.2d at 345. We defer to a ULJ's credibility determination so long as it is "supported by substantial evidence." *Ywsyf v. Teleplan Wireless Servs., Inc.*, 726 N.W.2d 525, 533 (Minn. App. 2007).

The ULJ's factual findings are supported by the evidentiary record. PCC presented evidence that Hubbard hand-wrote a one-sentence resignation letter immediately after being denied a personal loan. PCC's witness testified that Hubbard got "a little angry" when his supervisor refused his request for the loan. The ULJ's observation that Hubbard was hot-tempered during the evidentiary hearing is supported by the transcript of the hearing. Hubbard used profanity while talking to the ULJ, refused to answer questions posed by the ULJ related to the prevailing-wage issue, and repeatedly attempted to interrupt and talk over both the ULJ and PCC's witness. Accordingly, both the ULJ's credibility determination and her factual finding are supported by substantial evidence.

We note that Hubbard does *not* argue that the denial of a personal loan is a good reason to quit that is caused by the employer. It is not. The ULJ properly reasoned that Hubbard quit without a good reason caused by the employer "[b]ecause PCC had no obligation to give Hubbard a loan."

Thus, the ULJ did not err by finding that Hubbard quit because he was denied a personal loan, not because he had complained about the wage rates paid by PCC.

II. Discharge After Quit

Hubbard also argues that his employment was terminated on March 12, 2020, because he had complained about the wage rates paid by PCC. In response, the department agrees that Hubbard was discharged on March 12, 2020, but argues that the reason for the discharge is irrelevant.

“A quit from employment occurs when the decision to end the employment was, at the time the employment ended, the employee’s.” Minn. Stat. § 268.095, subd. 2(a). Conversely, “[a] discharge from employment occurs when any words or actions by an employer would lead a reasonable employee to believe that the employer will no longer allow the employee to work for the employer in any capacity.” *Id.*, subd. 5(a). Furthermore:

An employee who gives notice of intention to quit the employment and is not allowed by the employer to work the entire notice period is discharged from the employment as of the date the employer will no longer allow the employee to work. *If the discharge occurs within 30 calendar days before the intended date of quitting, then, as of the intended date of quitting, the separation from employment is a quit from employment* subject to subdivision 1.

Id., subd. 5(d) (emphasis added).

We accept the department’s concession that Hubbard was discharged on Thursday, March 12, 2020. But Hubbard previously had given notice on Friday, February 28, 2020, of his intent to quit on Friday, March 13, 2020. Accordingly, Hubbard was unemployed

for only one day because of the March 12, 2020, termination. But, under the statute, his unemployment after March 13, 2020, is due to his having quit. *See id.*

The department contends that Hubbard's one day of unemployment before his quit date is inconsequential. Ineligibility for unemployment benefits is effective as of the Sunday of the week in which the applicant became unemployed. Minn. Stat. § 268.095, subd. 10(b). In this case, Hubbard is ineligible for employment benefits as of Sunday, March 8, 2020, because he quit his employment effective Friday, March 13, 2020. He would be ineligible as of Sunday, March 8, 2020, whether or not he was discharged on Thursday, March 12, 2020.

Thus, the ULJ did not err by not awarding unemployment benefits to Hubbard for the one day before his quit date.

III. Finding Concerning Unpaid Loans

Hubbard last argues that the ULJ erred by finding that, on February 28, 2020, he had not repaid a prior personal loan. As the department correctly notes, this finding of fact is immaterial. The ULJ reasoned that PCC had no obligation to give Hubbard a personal loan. That is true whether or not Hubbard had repaid a prior personal loan. In either event, Hubbard's quit was not for a good reason caused by the employer. Nonetheless, we note that PCC's witness testified that Hubbard had not repaid prior personal loans. The ULJ found PCC's witness to be credible and found Hubbard to be not credible, and we defer to that finding of credibility. *See Skarhus*, 721 N.W.2d at 345.

Thus, the ULJ did not err by finding that Hubbard had not repaid a prior personal loan.

Affirmed.