

*This opinion is nonprecedential except as provided by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
A21-1650**

John Lo,
Relator,

vs.

Pye-Barker Fire & Safety LLC,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed June 27, 2022
Affirmed
Connolly, Judge**

Department of Employment and Economic Development
File No. 46477395-3

John Lo, Isanti, Minnesota (pro se relator)

Pye-Barker Fire & Safety LLC, Alpharetta, GA (respondent employer)

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

Considered and decided by Larkin, Presiding Judge; Connolly, Judge; and Smith,
Tracy M., Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Pro se relator challenges the decision of an unemployment law judge (ULJ) that he was ineligible for unemployment benefits because he quit his job without good reason caused by respondent-employer. We affirm.

FACTS

Respondent Pye-Barker Fire & Safety LLC (Pye-Barker) provides fire and life safety equipment and services such as fire alarms, fire suppression systems, and fire extinguishers. Relator John Lo began working for Pye-Barker's predecessor, Nardini Fire, as a fire alarm technician, but later moved to the shop where he serviced fire extinguishers by removing chemical powders from the extinguishers. Pye-Barker provided safety glasses, dust masks, and gloves to the shop technicians, and required them to be worn in order to prevent exposure to the chemicals. Pye-Barker also recently remodeled the shop room to improve ventilation by installing a utility fan.

Lo quit his job at Pye-Barker, claiming that the shop was not properly ventilated, which resulted in too much exposure to the chemical associated with the fire extinguishers. Lo subsequently established a benefit account with respondent Minnesota Department of Employment and Economic Development (department), and a department administrative clerk issued a determination of eligibility, which concluded that Lo quit for a good reason caused by the employer. Pye-Barker appealed that decision and, following a de novo hearing, the ULJ determined that the "work conditions were not a reason which would compel a reasonable employee to quit and become unemployed" because the

“preponderance of the evidence shows that [Pye-Barker] provided personal protective equipment to minimize exposure,” and “took steps to improve ventilation.” The ULJ also found that Lo never complained about the conditions to his employer. Thus, the ULJ concluded that Lo was not eligible for unemployment benefits.

Lo requested reconsideration, and the ULJ affirmed his decision. This certiorari appeal follows.

DECISION

Lo challenges the ULJ’s decision that he is ineligible for unemployment benefits because he quit without good reason caused by his employer. “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) (2020). “An applicant who quit[s] employment is ineligible for all unemployment benefits” unless he or she qualifies under one of the enumerated exceptions to ineligibility. *Id.*, subd. 1 (2020).

One exception to ineligibility for unemployment benefits is if an applicant quit employment because of a good reason caused by the employer. *Id.*, subd. 1(1). “What constitutes good reason caused by the employer is defined exclusively by statute.” *Rootes v. Wal-Mart Assocs., Inc.*, 669 N.W.2d 416, 418 (Minn. App. 2003). 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.” Minn. Stat. § 268.095, subd. 3(a) (2020). “If an applicant was subjected to adverse working conditions by the employer, the applicant must complain to the

employer and give the employer a reasonable opportunity to correct the adverse working conditions before that may be a good reason caused by the employer for quitting.” *Id.*, subd. 3(c) (2020).

“In unemployment benefits cases, we review the ULJ’s findings of fact in the light most favorable to the decision and will not disturb those findings as long as there is evidence in the record that reasonably tends to sustain them.” *Wilson v. Mortg. Res. Ctr., Inc.*, 888 N.W.2d 452, 460 (Minn. 2016) (quotation omitted). Whether the applicant falls under an exception to ineligibility for quitting employment is a question of law, which is reviewed de novo. *Peppi v. Phyllis Weatley Cmty. Ctr.*, 614 N.W.2d 750, 752 (Minn. App. 2000); *Rowan v. Dream It, Inc.*, 812 N.W.2d 879, 883 (Minn. App. 2012).

Lo argues that the ULJ erred in concluding that he quit his employment without good reason caused by his employer because he quit his job “due to the excessive amount of chemical powder lingering in the room [he] worked in.” To support his position, Lo cites *Pahl-Jones v. ASI Sign Sys.*, in which this court determined that the employee quit her employment for good reason caused by her employer because “exposure to . . . polyurethane paint caused her to have chest pain and headaches.” No. C2-01-1245, 2002 WL 4556, at *1 (Minn. App. Jan. 2, 2002). But *Pahl-Jones* is a nonprecedential opinion that has limited value in deciding an appeal. Minn. R. Civ. App. P. 136.01, subd. 1(c) (“Nonprecedential opinions and order opinions are not binding authority . . .”). Moreover, in *Pahl-Jones*, the employee complained to her employer about the chemical exposure and the employer would not allow the employee to use recently purchased safety equipment. *Id.* at *3. Here, the ULJ found that Lo never complained to his employer about the working

conditions. This finding is supported by Pye-Barker's branch manager's testimony. Although Lo testified that he complained to his employer about his concern related to the ventilation, the ULJ specifically found that the branch manager's testimony "was credible because it was logical and plausible," and we defer to this credibility determination. See *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). Therefore, because the ULJ found credible the branch manager's testimony that Lo did not complain to his employer, we will not disturb the ULJ's finding that Lo failed to give Pye-Barker a reasonable opportunity to correct any alleged adverse working condition as required by Minn. Stat. § 268.095, subd. 3(c).

There is also no evidence that the conditions of Lo's employment were so adverse as to compel an average, reasonable employee to quit. Although the branch manager acknowledged that "exposure to large amounts" of the chemical powders contained in the fire-safety equipment can "cause some irritation," he testified: "that's why we require our employees to wear safety glasses." And the branch manager testified that Pye-Barker provides other safety equipment "like masks and gloves . . . to keep the agent off the skin and out of the lungs."

Lo argues that the masks provided by Pye-Barker were inadequate because they "were no different than the disposable one-time use COVID mask which is not N95 or N100, which failed to protect my lungs from the chemical powders." But the branch manager testified that they provide "3M . . . masks that are . . ., they're like dust masks." The branch manager also testified that the shop was recently "remodeled . . . to make it larger" and a new utility fan was installed to improve ventilation. And according to the

branch manager, the shop room met regulatory standards because “OSHA and DOT” had been in the facility “several times” and “nobody’s mentioned anything about the room or the fan.” Accordingly, we conclude that, because there is no evidence that the conditions of Lo’s employment were so adverse as to compel an average reasonable employee to quit, and because there is substantial evidence to support the ULJ’s finding that Lo failed to inform his employer about his safety concerns, the ULJ did not err in determining that Lo was not eligible for unemployment benefits.

Affirmed.