

*This opinion is nonprecedential except as provided by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
A22-0814**

Edwin A. Mathieu,
Relator,

vs.

University of St. Thomas,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed February 21, 2023
Affirmed
Reilly, Judge**

Department of Employment and Economic Development
File No. 48501361-4

Edwin A. Mathieu, Minneapolis, Minnesota (pro se relator)

University of St. Thomas, St. Paul, Minnesota (respondent employer)

Keri Phillips, Lossom Adams, Minnesota Department of Employment and Economic
Development, St. Paul, Minnesota (for respondent department)

Considered and decided by Cochran, Presiding Judge; Bjorkman, Judge; and Reilly,
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NONPRECEDENTIAL OPINION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 employment without a good reason caused by his employer. We affirm.

FACTS

Relator Edwin A. Mathieu worked as a full-time cook for respondent University of St. Thomas (St. Thomas) from October 2021 to January 2022. In December 2021, Mathieu met with his supervisors for a conversation Mathieu later described as non-disciplinary. His supervisors informed Mathieu that a student made a sexual-harassment allegation against him. Mathieu requested an investigation into the allegations. The supervisors did not disclose the name of the student or any details about the incident but warned Mathieu to be “careful [about] how [he] talk[ed] to people” and told him not to worry about the situation. They told Mathieu that St. Thomas students are very religious and could have taken “one little look at something totally opposite for what it means.” The supervisors stated they did not want to escalate the situation by referring it to human resources.

During the second week of January 2022, one of Mathieu’s supervisors met with Mathieu again for a non-disciplinary conversation. The supervisor informed Mathieu that another student went to management and made a sexual-harassment allegation against Mathieu, and the supervisor repeated his warning for Mathieu to be careful how he talked to people. Mathieu again asked his supervisor to contact human resources to begin to investigate the allegations that Mathieu believed were false. His supervisor agreed to speak

to human resources to request that they begin an investigation at Mathieu's request. After the supervisor's conversation with Mathieu, the supervisor never followed up with Mathieu about speaking to human resources or informed him of any impending investigation. Mathieu never approached or contacted human resources directly with his concerns, rather he assumed his supervisor did so on his behalf.

The next week, Mathieu learned his grandmother's health was declining and submitted a request to his supervisor to take a week off of work to visit her in Utah. His supervisor allowed Mathieu to be absent from work beginning on January 23, 2022 and expected Mathieu to return by January 31. Mathieu's grandmother passed away and he attended her funeral during his absence. On January 28, Mathieu emailed human resources and informed them he was resigning, effective immediately. Mathieu's email explained, "[D]ue to unavoidable personal reasons my attention is required elsewhere."

Mathieu applied for unemployment benefits with respondent Department of Employment and Economic Development (DEED). In March 2022, DEED determined that Mathieu was ineligible for unemployment benefits and that Mathieu had received an overpayment of benefits in the amount of \$1,107. Mathieu administratively appealed the determination of ineligibility. An unemployment-law judge (ULJ) conducted an evidentiary hearing in April 2022. A human-resources representative testified for St. Thomas and Mathieu testified on his own behalf.

Mathieu testified his reason for quitting and not returning to work was a "combination" of (1) grieving the loss of his grandmother; and (2) feelings of discomfort because the sexual-harassment allegations against him had not been investigated despite

his requests. Mathieu requested the ULJ subpoena both of his supervisors to corroborate his testimony, explain how St. Thomas' investigation process would work, and discover whether the supervisors were violating university policies by not going to human resources. The ULJ denied Mathieu's subpoena requests because St. Thomas was not contesting the content of Mathieu's conversations with his supervisors and the ULJ did not "need to hear them tell [the ULJ] the same things." The human-resources representative testified that her department had no notice of any sexual-harassment allegations about Mathieu and that all employees are encouraged to contact human resources if they have concerns about their supervisors.

The ULJ issued an order concluding Mathieu was ineligible for unemployment benefits. The ULJ concluded that Mathieu did not quit because of a good reason caused by St. Thomas because an average, reasonable worker would not quit when faced with sexual-harassment allegations given that there were no threats of legal action, no formal discipline, and no jeopardized employment. The ULJ also determined that Mathieu did not give St. Thomas a reasonable opportunity to correct the situation prior to quitting.

In April 2022, Mathieu filed a request for the ULJ to reconsider the decision, explaining it was impossible to speak with human resources in person due to his work schedule and stating that he did email a different human-resources representative seeking an investigation into the allegations before quitting. The ULJ issued an order affirming the prior decision. Mathieu's pro se appeal by writ of certiorari follows.

DECISION

I. The ULJ did not err in determining Mathieu is ineligible for unemployment benefits because he did not quit for a good reason caused by his employer.

Mathieu argues he is entitled to unemployment benefits because he quit for a good reason caused by St. Thomas. In reviewing a ULJ's eligibility decision, we may affirm the decision, remand for further proceedings, or reverse and modify the decision if the substantial rights of the relator have been prejudiced. Minn. Stat. § 268.105, subd. 7(d) (2022). This court reviews the ULJ's factual findings in the light most favorable to the decision. *Wilson v. Mortg. Res. Ctr., Inc.*, 888 N.W.2d 452, 460 (Minn. 2016). Those findings are not disturbed "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).

An applicant is ineligible for unemployment benefits if they quit their employment unless one of ten statutory exceptions applies. Minn. Stat. § 268.095, subd. 1 (2022). One exception arises when an employee quits "because of a good reason caused by the employer." *Id.*, subd. 1(1). To qualify, the "good reason" must be: (1) "directly related to the employment and for which the employer is responsible"; (2) "adverse to the worker"; and (3) one "that would compel an average, reasonable worker to quit and become unemployed rather than remaining in the employment." *Id.*, subd. 3(a) (2022). An employee must complain about the adverse conditions to the employer and give the employer a reasonable opportunity to correct the conditions before it qualifies as a good reason caused by the employer for quitting. *Id.*, subd. 3(c) (2022). Whether an employee

had a good reason is a question of law reviewed de novo. *Peppi v. Phyllis Wheatley Cmty. Ctr.*, 614 N.W.2d 750, 752 (Minn. App. 2000).

Mathieu argues that he quit because of a good reason caused by his employer because his supervisors failed to contact human resources and request an investigation into the sexual-harassment allegations against Mathieu. Without an opportunity to clear his name from the allegations he contends are false, Mathieu states he suffered adverse psychological effects and damage to his reputation. The ULJ found that Mathieu did not have a good reason to quit under the statute because being accused of sexual harassment under similar circumstances would not compel an average, reasonable worker to quit. We agree.

The ULJ's findings in support of its ineligibility determination are supported by substantial evidence. When he quit, Mathieu was not facing legal action based on his alleged conduct and testified he did not know about any impending investigation or action by law enforcement to "charg[e] [him] with anything." And Mathieu was not in danger of discharge based on the allegations. The human-resources representative testified that St. Thomas had no record of any complaint or sexual-harassment allegation about Mathieu and that no disciplinary action was taken against him. Mathieu's supervisors spoke to him in a non-disciplinary conversation and told him to keep an eye on his surroundings, be more careful, and not to worry about the allegations. On these facts, we do not discern any adverse condition that would compel a reasonable employee to quit.

Mathieu argues that his supervisors were responsible for contacting human resources on his behalf and, by failing to do so, he was never relieved of his anxieties about

returning to work and compelling him to quit. Mathieu testified he never approached human resources himself about investigating the allegations or his supervisors' inaction.¹ While this court has held that an employer has a duty to investigate a complaint of sexual harassment and take appropriate steps against offending personnel, we have not addressed whether an affirmative duty to investigate is triggered solely by a request by an individual accused of sexual harassment. *See id.* at 753 (holding if an employer fails to investigate a complaint of sexual harassment and the employee quits because of the harassment, the employee has a good reason caused by the employer for quitting). Even so, the source of Mathieu's fear and discomfort in returning to work rested on his knowledge that the allegations had been made. "The standard of what constitutes good cause to quit is whether the reason was compelling, real and not imaginary, substantial and not trifling, reasonable and not whimsical or capricious." *Trego v. Hennepin Cnty. Family Day Care Ass'n*, 409 N.W.2d 23, 26 (Minn. App. 1987). It applies "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). There is no evidence Mathieu was treated any differently by St. Thomas, his supervisors, or by the students he served because of the allegations. Though allegations

¹ Mathieu argued in his request for the ULJ to reconsider the decision that he did email a different human-resources representative to request an investigation, and mistakenly told the ULJ he never spoke to human resources because he was nervous during the hearing. We review the denial of a request for an additional hearing for an abuse of discretion. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). The ULJ refused to order another hearing based on Mathieu's new evidence because the existence of the email contradicts Mathieu's clear testimony that he never contacted human resources himself but wished that he did and was solely relying on his supervisor to reach out on his behalf. We discern no abuse of discretion in the ULJ's ruling.

themselves can be troubling, the record does not show that a reasonable person would find the condition compelling or substantial enough to quit.

As a result, Mathieu did not quit for a good reason caused by his employer, and the ULJ did not err in its determination that he is ineligible for unemployment benefits.

II. The ULJ did not abuse its discretion by denying Mathieu’s request to subpoena his supervisors.

The ULJ has a “duty to assist” parties with the development of the record. *White v. Univ. of Minn. Physicians Corp.*, 875 N.W.2d 351, 357 (Minn. App. 2016). The ULJ “may issue subpoenas to compel the attendance of witnesses . . . upon a showing of necessity by the requesting party.” Minn. R. 3310.2914, subp. 1 (2021). But the ULJ may deny a request for a subpoena “if the testimony or documents sought would be irrelevant, immaterial, or unduly cumulative or repetitious.” *Id.* This court reviews a ULJ’s decision whether to issue a subpoena for an abuse of discretion. *Icenhower v. Total Auto., Inc.*, 845 N.W.2d 849, 853 (Minn. App. 2014), *rev. denied* (Minn. July 15, 2014).

Mathieu argues that the ULJ improperly denied his request to issue subpoenas for the appearance and testimony of his supervisors because the human-resources representative who appeared on behalf of St. Thomas had no knowledge or record of the sexual-harassment allegations against Mathieu and was “clueless” as to what the hearing was about. During the hearing, Mathieu requested his supervisors be called to: (1) corroborate Mathieu’s testimony; (2) explain how the investigation process worked; and (3) discover whether the supervisors were violating university policies by not approaching human resources. The ULJ denied his subpoena requests because the ULJ

credited Mathieu's account of his conversations with his supervisors and did not "need to hear them tell [the ULJ] the same things."

The ULJ did not abuse its discretion in denying Mathieu's subpoena requests. The supervisors' testimony corroborating Mathieu's account of their conversations would have been cumulative because the district court credited Mathieu's descriptions. Further, even if testimony about human resource's investigation process was relevant, there is no indication that the supervisors' testimony would help in understanding a separate department's procedure. Mathieu had a chance to question the human-resources representative about the process and declined. Lastly, testimony from the supervisors about their inaction and failure to contact human resources would not aid Mathieu in determining whether university policy placed a duty upon them to act. Because the testimony would be "irrelevant, immaterial, [and] unduly cumulative," the ULJ did not abuse its discretion in denying Mathieu's subpoena requests. Minn. R. 3310.2914, subp. 1.

Affirmed.