

*This opinion is nonprecedential except as provided by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
A24-1540**

Robert Salvaggio,
Relator,

vs.

Prominent Technology, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed July 7, 2025
Affirmed
Reyes, Judge**

Department of Employment and Economic Development
File No. 50611585-3

Jasper D. Berg, IAJ Law, LLC, Edina, Minnesota (for relator)

Prominent Technology, Inc., Bismarck, North Dakota (respondent employer)

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

NONPRECEDENTIAL OPINION

REYES, Judge

Relator challenges the decision of an unemployment-law judge (ULJ) finding him ineligible for unemployment benefits because he did not quit his employment for a good reason. We affirm.

FACTS

Relator Robert Salvaggio is an information technology professional who worked for respondent Prominent Technology, Inc., from May 21, 2019, to May 1, 2024. Salvaggio initiated discussions with Prominent in January 2023 about transitioning from full-time employment to a part-time position after receiving a poor performance review. In response to his request, Prominent offered Salvaggio the option to continue working full-time, part-time temporary, or as temporary regular employee. Salvaggio agreed to work for Prominent as a part-time employee, assuming that he would work at least 20 hours per week at a pay rate of \$71.00 per hour. When Prominent could not guarantee Salvaggio that he would work 20 hours a week, he submitted his resignation.

After ending his employment with Prominent, Salvaggio sought unemployment benefits from the Department of Employment and Economic Development (DEED). DEED issued an initial determination of ineligibility, finding that Salvaggio ended his employment due to a change in a condition in his employment, specifically, a change in his hours, that Prominent did not initiate. After receiving a determination of ineligibility from DEED, Salvaggio requested a hearing before an ULJ.

In June 2024, the parties appeared telephonically for a recorded evidentiary hearing. Salvaggio claimed that discriminatory comments made by company leadership about his age and his wife being his “sugar mama” traumatized him and adversely impacted his mental health. However, he never requested an accommodation from Prominent leadership. During the hearing, Salvaggio recalled a single instance in which Prominent referenced his age. Salvaggio admitted that he signed an employment-status-change letter with Prominent “as a last resort” to have money coming in, even though the letter did not state the number of hours he would work. Salvaggio stated that he chose not to have other witnesses testify about statements Prominent made about his work performance at the hearing.

Prominent’s witness did not recall any references to Salvaggio’s age and his ability to do his job and stated that the comment about his wife was made in jest.

Following the hearing, the first ULJ found Salvaggio’s testimony to be credible. The first ULJ further determined that Salvaggio quit for a good reason because Prominent’s leadership engaged in “discrimination using gender stereotypes” by referring to his wife as his “sugar mama,” implied age discrimination, and criticized his leadership in front of his team. Prominent requested reconsideration of the first ULJ’s decision, and the chief ULJ reassigned Salvaggio’s case to a second ULJ.

On reconsideration, the second ULJ reversed the prior decision, finding that Salvaggio voluntarily transitioned to a part-time role without guaranteed minimum hours and that he did not quit because of Prominent’s leadership’s remarks. The second ULJ did

not find Salvaggio's testimony credible based on their review of the evidence presented, which included the testimony Salvaggio had given at the prior hearing.

This appeal follows.

DECISION

I. The first ULJ judge provided adequate assistance to Salvaggio to help him develop the record.

Salvaggio contends that the first ULJ breached his duty to assist him with the presentation of evidence and proper development of the record because the circumstances surrounding the termination of his employment with Prominent impacted his ability to communicate effectively during the hearing. We are not persuaded.

An ULJ must conduct the hearing "as an evidence-gathering inquiry." Minn. R. 3310.2921 (2023). In doing so, the ULJ "must assist all parties in the presentation of evidence" and control the hearing "in a manner that protects the parties' rights to a fair hearing." *Id.* We may affirm an ULJ's decision, remand for further proceedings or, we may reverse or modify, if among other reasons, the ULJ employed an unlawful procedure, the decision is affected by other error of law, it made a determination unsupported by substantial evidence, or it conducted the hearing in an arbitrary and capricious manner. Minn. Stat. § 268.105, subds. 7(d)(3)-(6) (2022); *see also Wichmann v. Travalia & U.S. Directives, Inc.*, 729 N.W.2d 23, 27 (Minn. App. 2007). To prove that an ULJ acted arbitrarily and capriciously, the claimant must demonstrate that the ULJ relied on improper factors, ignored important issues, the decision ran counter to the evidence, or was highly implausible. *In re Panel File 98-26*, 597 N.W.2d 563, 567 (Minn. 1999).

We will reverse when the evidence shows that the ULJ did not “take a hard look” at the issues and the decision lacks well-articulated standards and findings. *Cable Commc’ns Bd. v. Nor-West Cable Commc’ns P’ship*, 356 N.W.2d 658, 669 (quotations omitted) (Minn. 1984). When the relevant facts are not in dispute, we review an ULJ’s denial of unemployment benefits de novo. *Menyweather v. Fedtech, Inc.*, 872 N.W.2d 543, 545 (Minn. App. 2015).

At the outset of the hearing, the first ULJ told the parties that they had the right to request that the hearing be rescheduled so that they could present documents and witnesses. Throughout the hearing, the first ULJ asked Salvaggio a series of questions about each of his claims of age and disability discrimination. These questions assisted Salvaggio in his presentation of evidence. The ULJ also provided Salvaggio with multiple opportunities to ask further questions or add any comments to the record after the ULJ questioned each party. Although Salvaggio stated that he had been traumatized by the situation with Prominent, he did not express that he could not proceed with the hearing or that he did not understand the purpose of the proceeding. To the contrary, prior to closing statements, the ULJ asked Salvaggio if he wanted to add anything. Salvaggio responded, “I appreciate how this was done. I conveyed the thoughts I had intended, so I thank you for that.” Salvaggio’s statement not only suggests that he understood the proceeding and could proceed with the hearing, but that he believed he adequately supported his claims.

II. The chief ULJ's reassignment of Salvaggio's case to a different ULJ is permitted by statute.

Salvaggio argues that the chief ULJ acted arbitrarily by reassigning his case to a different ULJ after Prominent requested reconsideration and that the second ULJ erred by making credibility determinations without an additional hearing. We disagree.

“The chief [ULJ] must assign an [ULJ] to conduct a hearing and may transfer to another [ULJ] any proceedings pending before [an ULJ].” Minn. Stat. § 268.105, subd. 1b(b) (2024). A request for reconsideration must be decided by the ULJ who issued the decision unless that judge (1) is no longer employed by the department; (2) is on an extended leave; or (3) has been removed by the chief ULJ. Minn. Stat. § 268.105, subd. 2(e) (2024).

While Salvaggio asserts that the chief ULJ acted arbitrarily by failing to provide a reason to change the ULJ, the statute does not require the chief ULJ to provide one. Because the statute allows the chief ULJ to assign a new ULJ to decide a request for reconsideration in certain circumstances, Salvaggio's argument fails.

Salvaggio also asserts that the second ULJ committed an unlawful error by making credibility determinations that were contrary to the first ULJ's credibility determinations without ordering an additional hearing following his request for reconsideration. Upon a request for reconsideration, a newly assigned ULJ may “modify [] the findings of fact” and issue a decision, Minn. Stat. § 268.105, subd. 2(f)(2), but must explain the reasons for discrediting the testimony of a witness when their credibility has a significant effect on the outcome of a decision, Minn. Stat. § 268.105, subd. 1a(a). Moreover, we review an ULJ's

decision to hold an additional evidentiary hearing for an abuse of discretion, and we will only reverse on that basis. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 345 (Minn. App. 2006).

Salvaggio relies on *Skarhus* to support his argument that the second ULJ could not substitute its own credibility determination. But in *Skarhus*, we stated that an ULJ's credibility determinations cannot be disturbed by an *appellate court* and that "[c]redibility determinations are the exclusive province of the ULJ." *Id.*

As to the second ULJ's decision not to hold another hearing, we first note that the second ULJ had access to the recording of the first hearing as well as all of the documents the parties submitted. In addition, the second ULJ issued a thorough decision setting forth its basis to modify the prior decision, including the reasons why it did not find Salvaggio's testimony to be credible, which are supported by the record. *See Stagg v. Vintage Place, Inc.*, 796 N.W.2d 312, 315 (Minn. 2011) (appellate courts review ULJ's factual findings in light most favorable to decision and do not disturb those findings if supported by record); *see also* Minn. Stat. § 268.105, subd. 7(d)(5).

And, as noted above, we defer to the ULJ's credibility determinations. *See Skarhus*, 721 N.W.2d at 345. We discern no abuse of discretion by the second ULJ's decision not to hold an additional hearing.

III. The record supports the second ULJ's determination that Salvaggio is not entitled to unemployment benefits because he did not quit for a good reason.

Salvaggio contends that the second ULJ committed an error of law by failing to find that he is entitled to unemployment benefits because Prominent (1) unilaterally reduced his

hours; (2) referred to his wife as his “sugar mama”; and (3) subjected him to age and disability discrimination. We are not convinced.

An employee who voluntarily quits is entitled to unemployment benefits if the decision to quit is the result of a good reason caused by the employer. Minn. Stat. § 268.095, subd. 1(1) (2024); *see Rootes v. Wal-Mart Associates, Inc.*, 669 N.W.2d 416, 418 (Minn. App. 2003). A good reason to quit caused by the employer is one that (1) is directly related to the employment 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 continue their employment. Minn. Stat. § 268.095, subd. 3(a)(1)-(3) (2024). Further, it must be real, “substantial not trifling, [] reasonable, [and] not whimsical.” *Ferguson v. Dept. of Emp. Servs.*, 247 N.W.2d 895, 900 n.5 (Minn. 1976) (quotations omitted).

An employer’s unilateral and substantial decrease of an employee’s hours of work is a good reason to quit. *Thao v. Command Ctr., Inc.*, 824 N.W.2d 1, 2 (Minn. App. 2012). The employee bears the burden of proving that they had a good reason to quit. *Hein v. Precision Assocs., Inc.*, 609 N.W.2d 916, 918 (Minn. App. 2000). Appellate courts review this issue de novo. *Thao*, 824 N.W.2d at 4. But appellate courts review an ULJ’s factual findings in the light most favorable to the decision and will not disturb those findings if they are supported by substantial evidence in the record. *See Stagg*, 796 N.W.2d at 315.

Salvaggio contends that he experienced “more than an 83% reduction in hours, after his employment status change” and asserts that he did not know that Prominent would not guarantee him a minimum number of hours until after he changed his employment status.

To support his argument, Salvaggio relies on *Thao*, 824 N.W.2d at 3. In that case, Command Center hired Thao as a permanent employee and told her that she would work at least 32 hours per week and that her hours could increase up to 40 hours a week. *Id.* However, management for Command Center testified that they hired Thao for primarily part-time work and that they never promised her increased hours or permanent full-time work. *Id.* This court reversed and remanded because the ULJ did not determine whether Command Center's reduction of Thao's hours was adverse to her and whether it would cause "an average, reasonable, employee to quit or remain in employment." *Id.* at 11.

Thao is substantially different from this case. Unlike Thao, Salvaggio admitted several times during the hearing that Prominent never guaranteed that he would work a minimum number of hours before he agreed to change his employment status and that he submitted his resignation because Prominent could not guarantee him 20 hours a week. Moreover, the second ULJ found that Salvaggio quit because he did not receive as many hours as he hoped he would, not because Prominent unilaterally reduced his hours. Because the second ULJ's finding that Prominent did not unilaterally reduce his hours is supported by substantial evidence, we conclude that it did not err by determining that Salvaggio did not quit for a good reason.

Similarly, Salvaggio failed to establish that the comment about his wife being his "sugar mama" gave him a good reason to quit. Notably, Prominent and Salvaggio agreed that the comment had been made once, and both parties perceived it to have been made in jest. Thus, the record supports the ULJ's determination that Salvaggio did not have a good reason to quit.

Additionally, Salvaggio's claims of age and disability discrimination are not supported by the record and also show that he did not quit for good reason. Salvaggio's claim of age discrimination was contradicted by his own testimony during the hearing. For example, Salvaggio testified that he believed Prominent stated that they would hire someone younger and cheaper, but that he "couldn't tie" Prominent's statements about his work performance to his age, and that he remembered Prominent referring to hiring someone younger during only one conversation. Salvaggio admitted that he did not seek any accommodations from Prominent with respect to his mental-health issues nor did he discuss how they impacted his ability to work or caused him to quit. Viewing the evidence in the light most favorable to the ULJ's decision, we conclude that substantial evidence supports Salvaggio's claims of age and disability discrimination and that he did not quit his employment for good reason.

Affirmed.