

*This opinion is nonprecedential except as provided by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
A25-1012**

Donald D. Kern,
Relator,

vs.

New Century Systems Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed March 9, 2026
Affirmed
Cochran, Judge**

Department of Employment and Economic Development
File No. 51477340-5

Donald D. Kern, Maple Grove, Minnesota (pro se relator)

New Century Systems Inc., Otsego, Minnesota (respondent employer)

Melannie M. Markham, Keri A. Phillips, Minnesota Department of Employment and
Economic Development, St. Paul, Minnesota (for respondent department)

Considered and decided by Cochran, Presiding Judge; Connolly, Judge; and Segal,
Judge.*

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

NONPRECEDENTIAL OPINION

COCHRAN, Judge

Relator challenges the decision of an unemployment-law judge (ULJ) that he was ineligible for unemployment benefits because he quit his employment without a good reason caused by his employer. Relator also asserts that he did not receive a fair hearing. We affirm.

FACTS

Relator Donald D. Kern was employed by respondent New Century Systems Inc. from May 10, 2024, to January 13, 2025.¹ Kern worked full-time as a service technician. During the time Kern worked for New Century Systems, the company had policies for employees to track their time. Technicians were not permitted to clock in for work until they arrived at their first job site, and they were required to clock out at the end of their last job. Kern was aware of the policies relating to recording his work hours and knew that he was not allowed to clock in until he arrived at his first job site.

On January 13, Kern clocked in while he was driving from his home to his first job site. Kern decided to clock in early because he was receiving work-related phone calls. Kern did not receive permission from New Century Systems to clock in before arriving at his first job site. New Century Systems' service coordinator noticed that Kern had clocked in before arriving at the first job site and notified Kern's supervisor. The supervisor called

¹ The facts are drawn from the ULJ's decision on reconsideration. *See* Minn. Stat. § 268.105, subd. 7(a) (2024) (stating that "[t]he Minnesota Court of Appeals must, by writ of certiorari to the department, review the unemployment law judge's decision on reconsideration").

Kern to ask why he clocked in before arriving at the job site. According to the supervisor, Kern became “irritated” and said, “F-ck this place. And f-ck you.” Kern hung up the phone. A short time later, he called the supervisor back and told his supervisor that he was quitting. Kern also sent a text message to the service coordinator stating, “I just quit. F-ck this place.” Kern clocked out of work approximately half an hour later and was paid for this time. Kern later attempted to withdraw his resignation, but the business owner did not allow Kern to do so.

Kern applied for unemployment benefits and established an unemployment-benefit account with respondent Minnesota Department of Employment and Economic Development (DEED). DEED issued a determination of ineligibility and Kern appealed. The ULJ held a de novo hearing and heard testimony from Kern, New Century Systems’ operations manager, Kern’s supervisor, and the service coordinator. The ULJ issued a decision concluding that Kern was ineligible for unemployment benefits because he quit his employment and the evidence did not support a finding that he quit because of a good reason caused by his employer.

Kern filed a request for reconsideration. The ULJ reconsidered the matter and, in a written order, modified the original order to include two additional factual findings and to make more detailed credibility findings. The ULJ determined, however, that none of the additional evidence or arguments put forth by Kern “cause[d] the ULJ to question the outcome of the decision.” The ULJ therefore affirmed the prior decision as modified. The ULJ found “that it was Kern’s decision to end the employment” because Kern “was dissatisfied with his perception of the working conditions.” The ULJ explained that an

employee who quits employment is ineligible for benefits unless an exception applies and noted that one such exception is quitting for a good reason caused by the employer. But the ULJ determined that Kern did not quit his employment for a good reason caused by New Century Systems. The ULJ further found that Kern did not give New Century Systems a reasonable opportunity to correct any perceived adverse working conditions prior to quitting. The ULJ also denied Kern's request for a new hearing.

This certiorari appeal follows.

DECISION

Kern challenges the ULJ's decision determining that he was ineligible to receive unemployment benefits. When reviewing a ULJ's decision on reconsideration, we may affirm the decision or remand for further proceedings. Minn. Stat. § 268.105, subd. 7(d) (2024). Or we may reverse or modify the ULJ's decision if the substantial rights of the relator have been prejudiced because, among other reasons, the decision is made upon unlawful procedure, affected by an error of law, or not supported by substantial evidence in the record. *Id.*, subd. 7(d)(3)-(5). "Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Posey v. Securitas Sec. Servs. USA, Inc.*, 879 N.W.2d 662, 665 (Minn. App. 2016) (quotation omitted). We review 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). And these findings will not be 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).

Kern raises several arguments on appeal. First, Kern asserts that the ULJ erred by determining that he quit his employment without a good reason caused by his employer. Second, Kern challenges the ULJ's credibility determinations. Third, Kern claims he did not receive a fair hearing because the ULJ was biased against him. We address each argument in turn.

I. The ULJ did not err by determining that Kern was ineligible for unemployment benefits.

Kern does not dispute that he quit his employment. Instead, Kern argues that the ULJ erred by determining that Kern is ineligible for unemployment benefits because he quit his employment without a good reason caused by his employer. We are not persuaded.

The ULJ determined that Kern quit his employment “because he was dissatisfied with his perception of the working conditions.” Eligibility for unemployment benefits is governed by Minnesota Statutes section 268.095 (2024). An applicant for unemployment benefits is ineligible for benefits if they quit their employment unless an exception applies. Minn. Stat. § 268.095, subd. 1. One such exception exists when “the applicant quit the employment because of a good reason caused by the employer.” *Id.*, subd. 1(1). To qualify for this exception, the “good reason” must be (1) “directly related to the employment and for which the employer is responsible”; (2) “adverse” to the employee; 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). “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 Cty. Fam.*

Day Care Ass’n, 409 N.W.2d 23, 26 (Minn. App. 1987) (quotation omitted). Further, an applicant subject to adverse working conditions “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.” Minn. Stat. § 268.095, subd. 3(c).

Whether the ULJ’s factual findings establish that the applicant meets a statutory exception to ineligibility for quitting employment is a question of law, which we review de novo. *Peppi v. Phyllis Wheatley Cmty. Ctr.*, 614 N.W.2d 750, 752 (Minn. App. 2000). The reason for which an employee quit their employment is a question of fact for the ULJ to determine. *Beyer v. Heavy Duty Air, Inc.*, 393 N.W.2d 380, 382 (Minn. App. 1986). The determination that an employee did not have a good reason to quit must be based on factual findings supported by substantial evidence. *Nichols v. Reliant Eng’g & Mfg., Inc.*, 720 N.W.2d 590, 594 (Minn. App. 2006).

Here, the ULJ found that “technicians were not allowed to clock in for work until they arrived at the first job site.” The ULJ also found that “Kern knew and understood the policy for recording his work hours,” but clocked in while driving to his first job site on the day in question. The ULJ noted that “[t]he evidence does not support that [Kern] was subjected to any adverse working conditions.” The ULJ further noted that Kern did not give New Century Systems “a reasonable opportunity to correct any perceived or actual working conditions” before quitting. For these reasons, the ULJ concluded that Kern did not quit due to a good reason caused by his employer.

The record supports the ULJ's findings. New Century Systems' witnesses testified that technicians were not permitted to clock in until they arrived at their first job site. The ULJ found that Kern quit "because he was frustrated with being asked why he was not complying with the policy for clocking in and no longer wanted to work for the employer." Simply being frustrated or dissatisfied with working conditions is not a good reason to quit caused by the employer. *Portz v. Pipestone Skelgas*, 397 N.W.2d 12, 14 (Minn. App. 1986) (explaining that the "phrase 'good cause attributable to the employer' does not encompass situations . . . where the employee is simply frustrated or dissatisfied with his working conditions"); *see also Ryks v. Nieuwsma Livestock Equip.*, 410 N.W.2d 380, 382 (Minn. App. 1987) (stating that "mere dissatisfaction with working conditions" does not establish good cause). And Kern has not shown that New Century Systems' clock-in policy would compel an average, reasonable worker to quit. We therefore discern no error in the ULJ's determination that Kern did not quit his employment due to adverse working conditions.

Further, it is uncontested that Kern did not give New Century Systems a reasonable opportunity to correct any adverse conditions before quitting. *See* Minn. Stat. § 268.095, subd. 3(c). There is no evidence that Kern spoke to New Century Systems' management regarding his concerns or gave New Century Systems an opportunity to address his concerns before quitting. Thus, even assuming Kern was subject to adverse working conditions, he did not afford New Century Systems a reasonable opportunity to correct the conditions he thought were adverse as required for those adverse conditions to be a good reason to quit under section 268.095, subdivision 3(c).

For these reasons, we conclude that the ULJ did not err in determining that Kern quit his employment without a good reason caused by his employer.

II. The ULJ's credibility determinations do not warrant reversal.

Kern argues that New Century Systems' witnesses misstated or misrepresented the policies related to compensation. He further asserts that the ULJ did not understand the "nuance" of Kern's testimony related to his workday. We construe these arguments as a challenge to the ULJ's credibility determinations underlying its factual findings. "Credibility determinations are the exclusive province of the ULJ." *Bangtson v. Allina Med. Grp.*, 766 N.W.2d 328, 332 (Minn. App. 2009) (quotation omitted). "When the parties have presented conflicting evidence on the record, [an appellate court] must defer to the [ULJ's] ability to weigh the evidence." *Whitehead v. Moonlight Nursing Care, Inc.*, 529 N.W.2d 350, 352 (Minn. App. 1995).

Kern objects to the ULJ's credibility assessments. When a ULJ relies heavily upon a witness's credibility in reaching a decision, the ULJ "must set out the reason for crediting or discrediting" the witness's testimony. Minn. Stat. § 268.105, subd. 1a (2024). The ULJ followed that requirement here. In its decision on reconsideration, the ULJ made detailed findings discussing the credibility of the witnesses. The ULJ found that the testimony presented by New Century Systems' witnesses "was credible because it was logical, consistent, based on first-hand knowledge, and supported, to an extent, by Kern's testimony." By contrast, the ULJ found that Kern's testimony was entitled to less weight "because it was inconsistent with his admission to facts against his interest and contradicted by written evidence and testimony in the record."

The decision on reconsideration shows that the ULJ “set out the reason for crediting or discrediting” the witness testimony. *Id.* And, on balance, the ULJ credited the testimony of New Century Systems’ witnesses over Kern’s testimony. We defer to these credibility determinations and decline to reweigh them on appeal. *See Whitehead*, 529 N.W.2d at 352.

III. Kern received a fair hearing.

Kern also seeks to reverse the ULJ’s decision on the grounds that he did not receive a fair hearing. Kern claims that the ULJ did not assist him in developing the record. And he further contends that the ULJ interrupted Kern while Kern was questioning a witness. We are not persuaded by either argument.

Development of the Record

Kern argues that he did not have a fair hearing because documents in New Century Systems’ possession, including Kern’s payroll records, were not entered into evidence during the hearing. The ULJ “must exercise control over the hearing procedure in a manner that protects the parties’ rights to a fair hearing,” must “ensure that all relevant facts are clearly and fully developed,” and must “assist all parties in the presentation of evidence.” Minn. R. 3310.2921 (2023); *see also White v. Univ. of Minn. Physicians Corp.*, 875 N.W.2d 351, 357 (Minn. App. 2016) (stating the ULJ has a “duty to assist” parties with the proper development of the record). However, the ULJ is not the attorney for an unrepresented party and must “maintain neutrality to assure fairness to all parties.” *Stassen v. Lone Mountain Truck Leasing, LLC*, 814 N.W.2d 25, 32 (Minn. App. 2012).

Here, the record shows that the ULJ assisted the parties in presenting evidence to ensure that the record was fully developed. At the beginning of the hearing, the ULJ

accepted five exhibits into evidence. The parties did not object to the exhibits or seek to submit any additional materials. To the extent Kern believes additional exhibits should have been submitted, the record does not show that he raised that concern to the ULJ. And we do not presume error on appeal. *See Waters v. Fiebelkorn*, 13 N.W.2d 461, 464-65 (Minn. 1944) (stating that error is not presumed on appeal and the aggrieved party bears the burden of demonstrating error). On this record, we are satisfied that the ULJ fulfilled the obligation of assisting the parties in developing the record while maintaining neutrality and ensuring fairness to both parties.

Questioning a Witness

Kern also contends that he did not receive a fair hearing because the ULJ interrupted Kern while Kern was questioning a witness. A hearing is generally considered fair if the parties are allowed to give statements, examine and cross-examine witnesses, and offer and object to exhibits. *See Ywsyf v. Teleplan Wireless Servs., Inc.*, 726 N.W.2d 525, 529-30 (Minn. App. 2007); *see also* Minn. R. 3310.2921 (noting that the proceeding is an “evidence gathering inquiry” during which the parties may examine and cross-examine witnesses, offer documents and exhibits, and raise objections). Yet the ULJ “may exclude any evidence that is irrelevant, immaterial, unreliable, or unduly repetitious.” Minn. R. 3310.2922 (2023).

At the hearing, Kern was given an opportunity to cross-examine New Century Systems’ witnesses. During Kern’s cross-examination of the operations manager, Kern stated that he did not have any questions and instead tried to respond to the testimony of the operations manager. The ULJ interrupted Kern and stated, “Hold on, sir. You’re

responding. It's not a question. I'm not hearing any arguments.” Kern then asked the operations manager why the company accepted Kern's resignation. The ULJ interrupted to ask a clarifying question, which the witness answered. On review, the record shows that the ULJ interrupted Kern to prevent Kern from testifying out of order and from asking repetitive or argumentative questions. The record as a whole demonstrates that Kern was able to testify, examine and cross-examine witnesses, and offer and object to exhibits. *See Ywswf*, 726 N.W.2d at 529-30 (noting that a hearing is generally considered fair if both parties are afforded these opportunities). Further, Kern does not explain how the ULJ's interjections prejudiced him. *See id.* at 530 (recognizing that an appellate court will not reverse for evidentiary errors that do not prejudice the relator). We therefore conclude that the ULJ's questions to the witness did not deprive Kern of a fair hearing.

Affirmed.