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STATE OF MINNESOTA
IN COURT OF APPEALS
A09-1786

David Smith,
Relator,

vs.

Hass Enterprises Inc.,
Respondent,

Department of Employment
and Economic Development,
Respondent.

Filed May 25, 2010
Affirmed
Klaphake, Judge

Department of Employment and Economic Development
File No. 22360082-3

David E. Smith, Maple Grove, Minnesota (pro se relator)

Hass Enterprises, Inc., Robbinsdale, Minnesota (respondent)

Lee B. Nelson, Department of Employment and Economic Development, St. Paul, Minnesota (for respondent Department of Employment and Economic Development)

Considered and decided by Klaphake, Presiding Judge; Minge, Judge; and Hudson, Judge.

U N P U B L I S H E D O P I N I O N

KLAPHAKE, Judge

Relator David Smith challenges a decision by an unemployment law judge (ULJ) that he was ineligible to receive unemployment benefits from respondent Hass Enterprises Inc. because he did not quit his job as a pharmacist for good reason caused by the employer. Relator faxed a letter of resignation to respondent on January 30, 2009, but claims that respondent later agreed to reinstate him to his former job. Because there is substantial evidentiary support for the ULJ's findings that relator quit employment because he was dissatisfied with his work schedule, that the parties did not later agree to a different schedule, and that respondent did not allow relator to withdraw his resignation, we affirm the ULJ's ineligibility determination.

D E C I S I O N

Upon review of an unemployment benefits decision, this court may affirm, reverse or modify the ULJ decision, among other reasons, if it is "unsupported by substantial evidence in view of the entire record as submitted; or arbitrary and capricious." Minn. Stat. § 268.105, subd. 7(d) (2008). This court views the ULJ's findings in the light most favorable to the decision and will not alter findings that are substantially supported by the record. *Skarhus v. Davanni's, Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). This court also gives full deference to the ULJ's credibility determinations and evaluations of conflicting evidence. *Nichols v. Reliant Eng'g & Mfg., Inc.*, 720 N.W.2d 590, 594 (Minn. App. 2006).

An employee who quits employment is ineligible to receive benefits. Minn. Stat. § 268.095, subd. 1 (2008). "An employee who seeks to withdraw a previously submitted notice of quitting is considered to have quit the employment if the employer does not agree that the notice may be withdrawn." Minn. Stat. § 268.095, subd. 2(c) (2008). The question of whether an employee quit employment is a question of fact. *Shanahan v. Dist. Mem'l Hosp.*, 495 N.W.2d 894, 896 (Minn. App. 1993). Whether an employee quit without good reason caused by the employer is a legal question subject to de novo review. *Nichols*, 720 N.W.2d at 594.

Relator challenges the ULJ decision in only one respect: that the facts do not support the ULJ's decision. Relator claims that after he gave notice of his resignation, he and respondent agreed during a conversation on February 6, 2009, that relator would keep working, and at no time was he ever told that respondent intended to keep looking for his replacement. Relator therefore claims that he did not quit and that he was replaced for no reason.

In ruling for respondent, the ULJ evaluated the facts offered by both parties and found that respondent's testimony regarding the parties' February 6 conversation was more factually detailed and more credible than relator's version. The ULJ concluded that respondent did not allow relator to withdraw his notice of quitting during their February 6 conversation. Relator emphasizes facts that are based on his own perspective and contrary to the ULJ's credibility findings, and that were not offered during the unemployment hearings. *Id.* (stating that findings will not be disturbed if substantially supported by the evidence). For these reasons, we reject relator's arguments and

conclude that relator has not met his burden to show that the ULJ's decision was unsupported by substantial evidence, or arbitrary and capricious.

Affirmed.