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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-123**

Jean Joseph,
Relator,

vs.

Department of Employment and Economic Development,
Respondent.

**Filed January 3, 2012
Affirmed
Minge, Judge**

Department of Employment and Economic Development
File No. 26211915-4

Jean Joseph, Minneapolis, Minnesota (pro se relator)

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

Considered and decided by Kalitowski, Presiding Judge; Minge, Judge; and Ross,
Judge.

UNPUBLISHED OPINION

MINGE, Judge

Relator challenges the unemployment law judge's (ULJ) denial of his application for unemployment benefits, asserting that his medical disability does not prevent him from receiving unemployment benefits. Because eligibility for unemployment benefits requires that an individual be both available for and actively seeking employment,

relator's disability that prevented him from working and his failure to seek employment disqualify him for benefits. We affirm.

FACTS

Relator Jean Joseph worked as a custodian at Healthcare Services Group between August and November of 2009, when he lost his job. Joseph applied for and received unemployment benefits until August 18, 2010, when he was stabbed in the heart. A medical statement indicates that Joseph underwent cardiac surgery and would be totally unable to work until September 16, 2010 but that he would be able to work with restrictions after that date. Another medical statement indicated that Joseph suffered a seizure during his recovery from surgery and that he would be totally unable to work until October 12, 2010.

Because Joseph was unable to work after his injury on August 18, respondent Minnesota Department of Employment and Economic Development determined that he was ineligible to continue receiving unemployment benefits after that date. Joseph appealed the denial of benefits. During an eligibility hearing with the ULJ, Joseph did not dispute the medical statements regarding his disability, the timing of his recovery, or his ability to work. Joseph testified that he had not looked for work since being released from medical restrictions because of various personal difficulties.

On the basis of the medical statements and Joseph's testimony, the ULJ found that Joseph was medically unable to work until October 12, 2010 and therefore not available for suitable employment. The ULJ also found that Joseph was not actively seeking suitable employment after October 12, 2010, when he was released from total work

restrictions. As a result, Joseph was found to be ineligible for unemployment benefits after August 18, 2010 and “continuing thereafter until conditions change.” Upon Joseph’s request for reconsideration, the ULJ affirmed this decision. This certiorari appeal follows.

D E C I S I O N

The issue on appeal is whether Joseph is eligible for unemployment benefits while he was medically unable to work or look for work. We review a ULJ’s eligibility decision de novo. *Sykes v. Nw. Airlines, Inc.*, 789 N.W.2d 253, 255 (Minn. App. 2010). A person seeking unemployment benefits must meet all ongoing eligibility requirements, including being both “available for suitable employment” and “actively seeking suitable employment.” Minn. Stat. §§ 268.069, subd. 1(3), .085, subds. 1(4)–(5), 15(a), 16(a) (2010). Availability for suitable employment requires that an applicant be “ready and willing to accept suitable employment” with no restrictions “either self-imposed or created by circumstances, temporary or permanent.” Minn. Stat. § 268.085, subd. 15(a). To be actively seeking suitable employment, an applicant must make “those reasonable, diligent efforts an individual in similar circumstances would make if genuinely interested in obtaining suitable employment.” *Id.*, subd. 16(a). Equitable relief from these requirements is statutorily prohibited. Minn. Stat. § 268.069, subd. 3 (2010).

Joseph’s testimony and the medical statements both indicate that he was medically unable to work from August 18, 2010 until October 12, 2010. Joseph has suffered a number of unfortunate medical incidents since he was last employed. Joseph’s inability to work as a result of his medical condition was a restriction, “created by circumstances,”

that prevented him from accepting suitable employment. Minn. Stat. § 268.085, subd. 15(a). During the period Joseph was not available to accept suitable employment, he was ineligible for unemployment benefits.

Joseph testified that he had not sought suitable employment after his release from complete medical restrictions. We sympathize with the difficulties Joseph faces in returning to the workforce. However, an applicant for unemployment benefits is required to undertake “reasonable, diligent efforts” to obtain suitable employment. *Id.*, subd. 16(a). Joseph’s testimony indicates that he has not undertaken such efforts; therefore, he is ineligible for unemployment benefits.

Because Joseph was unavailable for suitable employment between August 18 and October 12, 2010 and has admittedly not sought suitable employment after the latter date, we conclude that he was not eligible for unemployment benefits during the time period covered by this proceeding.

Affirmed.