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**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-755**

Laurice J. Neal,
Relator,

vs.

Department of Employment and Economic Development,
Respondent.

**Filed January 23, 2012
Affirmed
Worke, Judge**

Department of Employment and Economic Development
File No. 27173997-3

Ethne O. Hedren, Black Moore Magnussen, Ltd., Elk River, Minnesota (for relator)

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

Considered and decided by Worke, Presiding Judge; Halbrooks, Judge; and
Stoneburner, Judge.

UNPUBLISHED OPINION

WORKE, Judge

Relator challenges the ULJ's determination that he was ineligible to receive unemployment benefits while attending school, arguing that the ULJ's finding that he was not available for or actively seeking employment is not supported by substantial evidence. We affirm.

DECISION

When reviewing the decision of a ULJ, this court may affirm the decision, remand for further proceedings, or reverse or modify the decision if the substantial rights of the relator have been prejudiced. Minn. Stat. § 268.105, subd. 7(d) (2010). Whether a party is entitled to receive unemployment benefits presents a question of law, which this court reviews de novo. *See Bukkuri v. Dep't of Emp't & Econ. Dev.*, 729 N.W.2d 20, 21-22 (Minn. App. 2007) (reviewing unemployment statute de novo).

To be eligible for unemployment benefits, an applicant must be “available for suitable employment.” Minn. Stat. § 268.085, subd. 1(4) (2010). An applicant is considered “[a]vailable for suitable employment” if the “applicant is ready and willing to accept suitable employment.” *Id.*, subd. 15(a) (2010). “An applicant may restrict availability to suitable employment, but there must be no other restrictions, either self-imposed or created by circumstances, temporary or permanent, that prevent accepting suitable employment.” *Id.* When the applicant is a student, the applicant “must be willing to discontinue classes to accept suitable employment when: (1) class attendance restricts the applicant from accepting suitable employment; and (2) the applicant is unable to change the scheduled class or make other arrangements that excuse the applicant from attending class.” *Id.*, subd. 15(b) (2010). The ULJ’s inquiry focuses on whether the applicant’s attachment to the work force is genuine. *Id.* Whether a party is “actively seeking” and “available for” suitable employment as required for eligibility is a factual determination. *Id.* This court will sustain a ULJ’s factual findings if they are supported by substantial evidence. Minn. Stat. § 268.105, subd. 7(d)(5).

Relator Laurice J. Neal applied for unemployment benefits after being laid off by his full-time employer in February 2011. Relator was enrolled as a full-time student for the spring semester when he was laid off. In completing his unemployment insurance request for information, relator stated that he was not looking for full-time employment because he was “attending school full time and working full time would [a]ffect [his] school grades and study time.” Relator attended classes Monday through Thursday from 8:00 a.m. to 4:00 p.m. Relator further indicated that his class schedule prevented him from searching for employment. Relator was declared ineligible to receive benefits, and the ULJ affirmed the initial ineligibility determination.

Relator contends that he mistakenly responded “no” to the question on the request for information of whether he was willing to “quit, rearrange, or get excused from classes in order to accept a suitable job.” Relator claims that this mistake is evidenced by his contrary testimony provided at an evidentiary hearing, specifically his statements that he was “willing to rearrange [his] schooling” for full-time employment and that he “would start working” if offered a full-time job. Relator further argues that his willingness to search for employment was demonstrated at the hearing by the fact that he maintained an online résumé with an employment-search website.

Relator’s arguments are unconvincing. Relator presented the same arguments to the ULJ. The ULJ found that relator was reluctant to answer whether he was willing to quit school if offered full-time employment, focusing instead on his willingness to try and rearrange his class schedule to accommodate an employment opportunity. The ULJ further found that relator was unable to rearrange his class schedule if he was offered

full-time employment during the daytime because his classes were only held from 8:00 a.m. to 4:00 p.m. Accordingly, the ULJ found relator's testimony that he was willing to quit school and that he was actively seeking employment to be unpersuasive. And credibility determinations are the exclusive province of the ULJ. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). The record substantially sustains the ULJ's finding that relator was not available for or actively seeking employment during the time period in question; thus, the ULJ did not err in concluding that relator was ineligible to receive unemployment benefits.

Affirmed.