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**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-932**

Kent Christensen,
Relator,

vs.

Department of Employment and
Economic Development,
Respondent.

**Filed March 19, 2012
Affirmed
Toussaint, Judge***

Department of Employment and Economic Development
File No. 27262816-3

Kent Christensen, Luck, Wisconsin (pro se relator)

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

Considered and decided by Halbrooks, Presiding Judge; Ross, Judge; and Toussaint, Judge.

UNPUBLISHED OPINION

TOUSSAINT, Judge

Relator Kent Christensen challenges the decision of an unemployment-law judge (ULJ) that, because Christensen elected February 13, 2011 as the effective date of his

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

benefit account at the time of filing, he is ineligible for unemployment benefits for the week of February 6, 2011. Because the ULJ's decision is supported by statute, we affirm.

D E C I S I O N

On February 14 or 15, 2011, Christensen established a new unemployment benefits account. When filing the application, he elected to have the account take effect on February 13; the other option was to backdate it one week to February 6. After noticing a gap in his unemployment benefits, and learning the cause, Christensen requested that his new account be backdated to February 6. The Minnesota Department of Employment and Economic Development (DEED) subsequently determined that Christensen was not eligible for benefits from February 6 through February 12. Christensen appealed the determination and a ULJ upheld it, both in an initial decision and upon reconsideration, finding that the statute does not permit retroactively backdating the effective date of a benefit account. This appeal followed.

This case presents an issue of statutory interpretation, which is a question of law, which we review *de novo*. *Am. Tower, L.P. v. City of Grant*, 636 N.W.2d 309, 312 (Minn. 2001); *Bukkuri v. Dep't of Emp't & Econ. Dev.*, 729 N.W.2d 20, 21 (Minn. App. 2007); *see* Minn. Stat. § 268.105, subd. 7(d)(4) (2010) (providing that court of appeals shall review ULJ's decision for error of law). When interpreting a statute, we must "ascertain and effectuate the intention of the legislature." Minn. Stat. § 645.16 (2010). In doing so, we first determine whether the statute's language, on its face, is ambiguous. *Am. Tower, L.P.*, 636 N.W.2d at 312. A statute's language is ambiguous only when its

language is subject to more than one reasonable interpretation. *Amaral v. Saint Cloud Hosp.*, 598 N.W.2d 379, 384 (Minn. 1999). We construe words and phrases according to their plain and ordinary meaning. *Frank's Nursery Sales, Inc. v. City of Roseville*, 295 N.W.2d 604, 608 (Minn. 1980); *see also* Minn. Stat. § 645.08(1) (2010) (providing that words are construed according to their common and approved usage). When the text of a law is plain and unambiguous, we interpret the language according to its plain meaning without resorting to other principles of statutory construction. *State v. Anderson*, 683 N.W.2d 818, 821 (Minn. 2004).

Under Minnesota law, to be eligible to receive unemployment benefits, an applicant must establish a benefit account. An applicant is not eligible to receive unemployment benefits for any week prior to the benefit account's effective date. Minn. Stat. § 268.085, subd. 2(1) (2010). Ordinarily, the effective date of a benefit account is the Sunday of the calendar week that the application for unemployment benefits was filed. Minn. Stat. § 268.07, subd. 3b(a) (2010). But it "may be backdated one calendar week before the Sunday of the week the application was actually filed if the applicant requests the backdating at the time the application is filed." *Id.*

On February 5, 2011, without Christensen realizing it, his previous unemployment benefits account expired. On February 15, while electronically filing his weekly unemployment benefits claim, Christensen was instructed to reapply for unemployment benefits. While reapplying, the benefits system asked if he would like his account to take effect on February 13, or if he would like it backdated one week to February 6. Because Christensen had filed an unemployment claim the week of February 6, and he did not

realize that the claim was for the preceding week and his old benefits account had expired February 5, he chose not to backdate his new account. This left him without benefits for the week of February 6. In late February, after Christensen realized the gap in his benefits and discovered the cause, he requested that his new account be backdated to February 6.

The plain meaning of the statute mandates that any request to backdate the effective date of a benefit account must be made at the time the application for unemployment benefits is filed. *See* Minn. Stat. §§ 268.07, subd. 3b(a), .085, subd. 2(1). We are without legal authority to supply a statutory exception that the legislature either intentionally or inadvertently omitted. *See Bukkuri*, 729 N.W.2d at 23; *see also Brekke v. THM Biomedical, Inc.*, 683 N.W.2d 771, 781 (Minn. 2004) (“We presume that the legislature’s omission of additional exemptions was deliberate.”). Accordingly, we conclude that the ULJ correctly determined that the effective date of Christensen’s benefit account could not be backdated after his application was filed.

Affirmed.