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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-0354**

Jill Dusterhoft,
Relator,

vs.

Department of Employment and
Economic Development,
Respondent.

**Filed September 5, 2017
Affirmed
Klaphake, Judge***

Department of Employment and
Economic Development
File No. 35055658-3

Jill Dusterhoft, White Bear Lake, Minnesota (pro se relator)

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

Considered and decided by Worke, Presiding Judge; Larkin, Judge; and Klaphake,
Judge.

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

UNPUBLISHED OPINION

KLAPHAKE, Judge

Relator challenges the unemployment-law judge's decision that she is ineligible for unemployment benefits because she was not available for suitable employment. We affirm.

DECISION

When reviewing the decision of an unemployment-law judge (ULJ), we affirm the decision unless the substantial rights of the relator have been prejudiced because, among other reasons, the decision is “affected by [an] error of law” or is “unsupported by substantial evidence in view of the entire record as submitted.” Minn. Stat. § 268.105, subd. 7(d) (2016). We review the ULJ's factual findings “in the light most favorable to the decision” and “give[] deference to the credibility determinations made by the ULJ.” *McNeilly v. Dep't of Emp't & Econ. Dev.*, 778 N.W.2d 707, 710 (Minn. App. 2010) (quotation omitted). “As a result, this court will not disturb the ULJ's factual findings when the evidence substantially sustains them.” *Id.* But we review the ULJ's ineligibility determination de novo, construing narrowly statutory bases to disqualify applicants. *Ress v. Abbott Nw. Hosp. Inc.*, 448 N.W.2d 519, 523 (Minn. 1989); *see also* Minn. Stat. § 268.031, subd. 2 (2016) (“[A]ny statutory provision that would preclude an applicant from receiving [unemployment] benefits must be narrowly construed.”).

Here, the ULJ concluded that Dusterhoft is ineligible to receive unemployment benefits because she was not available for suitable employment. A person may be eligible for unemployment benefits for any week when she was (1) “available for suitable

employment,” and (2) “actively seeking suitable employment.” Minn. Stat. § 268.085, subd. 1(4), (5) (2016). “‘Available for suitable employment’ means an applicant is ready, willing, and able to accept suitable employment,” and “[t]he attachment to the work force must be genuine.” *Id.*, subd. 15(a). “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.*

“‘Actively seeking suitable employment’ means those reasonable, diligent efforts an individual in similar circumstances would make if genuinely interested in obtaining suitable employment under the existing conditions in the labor market area. Limiting the search to positions that are not available or are above the applicant’s training, experience, and qualifications is not ‘actively seeking suitable employment.’”

Id. at subd. 16(a). Whether an applicant is available for and actively seeking suitable employment, and whether the applicant’s attachment to the work force is genuine, are factual determinations. *Goodman v. Minn. Dep’t of Emp’t Servs.*, 312 Minn. 551, 552-53, 255 N.W.2d 222, 223 (1977).

The ULJ found that Dusterhoft was a university student with regularly scheduled classes, and was one month away from graduating. Dusterhoft originally stated that she was not willing to quit school to accept suitable employment. She later stated she would quit school “[i]f it came down to it.” After she had graduated and filed a request for reconsideration, she stated that she “would have quit school” in order to accept suitable employment. The ULJ specifically found that Dusterhoft’s testimony that she “was willing to quit school one month prior to graduating and obtaining a degree in Applied Economics was not convincing.” “[C]redibility determinations are the exclusive province of the ULJ

and will not be disturbed on appeal.” *Bangston v. Allina Med. Grp.*, 766 N.W.2d 328, 332 (Minn. App. 2009) (quotation omitted). Overall, the ULJ concluded that “the greater weight of the evidence shows that [Dusterhoft] was not willing to quit school or rearrange her classes in order to accept suitable employment.” The ULJ therefore correctly determined that Dusterhoft is not entitled to receive unemployment benefits because she was not available for suitable employment.

Affirmed.