This opinion is nonprecedential except as provided by Minn. R. Civ. App. P. 136.01, subd. 1(c).

STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1439

Linda Blommer,
Relator,

vs.

College of St. Benedict,
Respondent,

Department of Employment and Economic Development,
Respondent.

Filed July 25, 2022
Affirmed
Ross, Judge

Department of Employment and Economic Development
File No. 46546721-3

Linda Blommer, St. Joseph, Minnesota (pro se relator)

College of St. Benedict, St. Joseph, Minnesota (respondent employer)

Katherine Conlin, Anne B. Froelich, Minnesota Department of Employment and Economic Development, St. Paul, Minnesota (for respondent department)

Considered and decided by Johnson, Presiding Judge; Worke, Judge; and Ross, Judge.

NONPRECEDENTIAL OPINION

ROSS, Judge

A culinary-services employee at a college applied for unemployment benefits after the school temporarily laid her off before the end of the academic year, responding to the

coronavirus. The Minnesota Department of Employment and Economic Development denied Linda Blommer's benefits request, and an unemployment-law judge confirmed the department's denial. Because Minnesota Statutes section 268.085, subdivision 7 (2020), precludes Blommer from using wage credits earned as an employee of an educational institution to qualify for unemployment benefits during the college's summer break, we affirm.

FACTS

Linda Blommer is a 30-year culinary-services employee of the College of St. Benedict. Blommer averages 35 weekly working hours during the academic year and decreases to 20 to 25 hours through the summer. The college temporarily laid Blommer off in May 2021, responding to the COVID-19 pandemic. It accurately predicted that Blommer would be laid off at least until June 7, when she resumed work with slightly fewer hours than she had worked in previous summers.

Blommer applied for unemployment benefits on May 16. The Minnesota Department of Employment and Economic Development determined that Blommer was ineligible for unemployment benefits for the weeks between academic years. Blommer appealed, and an unemployment-law judge (ULJ) conducted an evidentiary hearing two weeks after she returned to work. The ULJ found Blommer ineligible for unemployment benefits and confirmed the decision after Blommer asked the ULJ to reconsider. Blommer appeals by certiorari.

DECISION

Blommer challenges the ULJ's decision, contesting factual findings and the ineligibility determination. We will rely on the ULJ's factual findings if evidence in the record reasonably supports them. *Wilson v. Mortg. Res. Ctr., Inc.*, 888 N.W.2d 452, 460 (Minn. 2016). We review the ULJ's ineligibility determination de novo. *Fay v. Dep't of Emp. & Econ. Dev.*, 860 N.W.2d 385, 387 (Minn. App. 2015).

Blommer unpersuasively disputes two factual findings. The first disputed finding—that she "works part-time for St. Ben's during the summer months" rather than full-time as a yearly employee—is supported by the evidence. Although the statute uses the terms "full time" and "part time," it does not define them. We have presumed for the purpose of an unemployment-benefits provision not applicable here that an employee working more than 32 hours weekly is employed full time. *Lamah v. Doherty Emp. Grp., Inc.*, 737 N.W.2d 595, 600 (Minn. App. 2007) ("For the limited purpose of applying the statutory exception of section 268.095, subdivision 1(5), we hold that an employee who performs 32 or more hours of service a week is presumptively employed full time."). DEED argues that 32 hours is the threshold for full-time employment even though this case does not involve the statute we interpreted in *Lamah*. Blommer does not offer a different threshold; she instead asserts now that she worked "an average of 32–35 hours a week" in the summer. Blommer cites no record source for that assertion, and she had testified differently, saying that she typically works 20 to 25 hours weekly during the summer. She maintained in her request for reconsideration that she really averaged 30 hours a week in the summer. Her unsupported assertion on appeal about working more than 32 hours is not sufficient to call

into doubt the ULJ's evidence-based finding that she worked only part-time hours during the summer.

The second disputed finding—that Blommer "resumed her normal part-time summer role" after returning from her layoff—is also supported by the evidence. The college's human resources representative testified that Blommer had returned to work and was working "some hours." Although Blommer asserts on appeal that she worked only 4 to 15 hours weekly in the summer she returned to work, she testified that, by comparison to her typical summer hours of 20 to 25 hours, "this summer it has been a little bit less" without defining how much less. The testimony supports the ULJ's finding that she resumed her part-time role.

Considering the ULJ's findings, we see no error in the ineligibility decision. Unemployment-benefits applicants generally may not use base-period wage credits earned from employment with an educational institution to qualify for benefits "between two successive academic years or terms if . . . the applicant had employment for an educational institution in the prior academic year or term [and] . . . there is a reasonable assurance that the applicant will have employment for an educational institution . . . in the following academic year or term." Minn. Stat. § 268.085, subd. 7(a) (2020). We reject Blommer's contention that this wage-credit limit applies only to other types of employees of educational institutions, like professors, whose work directly tracks the academic year, but not to food-service employees. The statute suggests no distinction, and we have applied the wage-credit limit to other educational-institution employees whose jobs, like Blommer's, were not directly linked to the academic year. *See, e.g.*, *Swanson v. Ind. Sch.*

Dist. No. 625, 484 N.W.2d 432, 434 (Minn. App. 1992) (holding that a continuous, year-round employee of a school district was ineligible for unemployment benefits under the wage-credit limitation), *rev. denied* (Minn. June 30, 1992); *Lewis v. West Side Cmty. Health Servs., Inc.*, 802 N.W.2d 853, 857–58 (Minn. App. 2011) (holding that a clinical social worker employed year-round by a school contractor was ineligible for unemployment benefits under the wage-credit limitation). The wage-credit limit in subdivision 7(a) applies here.

Likewise unconvincing is Blommer's argument that she fits a statutory exemption from the wage-credit limit. Exempt applicants include those "who, at the end of the prior academic year or term, had an agreement for a definite period of employment between academic years or terms." Minn. Stat. § 268.085, subd. 7(b) (2020). The ULJ did not find that Blommer had any agreement with the college for summer employment, and Blommer cites no evidence in the record indicating that the ULJ clearly erred by omitting the finding. The ULJ was not obligated to infer from Blommer's prior practice of summer work that such an agreement existed, as the statute requires that the "agreement for a definite period" had to be in place "at the end of the prior academic year or term" and, before the end of the academic year, the college had informed Blommer that she would be laid off and that the lay-off would extend for an indefinite period into the summer.

Affirmed.