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

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A11-254**

Stephen Carlson,  
Relator,

vs.

Department of Employment and Economic Development,  
Respondent.

**Filed December 27, 2011  
Affirmed  
Stoneburner, Judge**

Department of Employment and Economic Development  
File No. 26292591-2

Stephen Carlson, St. Paul, Minnesota (pro se relator)

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

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

**UNPUBLISHED OPINION**

**STONEBURNER**, Judge

Relator challenges the determination of the unemployment-law judge (ULJ) that  
he is not entitled to receive extended federal unemployment benefits under the Federal  
Unemployment Compensation Extension Act of 2010, Pub. L. 111-205 (the Act).

Relator asserts that the ULJ and DEED violated the Act and also violated a number of his

statutory and constitutional rights. Relator seeks damages under 42 U.S.C. § 1983 and other relief. Because we conclude that the ULJ did not err in determining that relator is not entitled to the federal benefits he claims under the Act, we affirm.

## **D E C I S I O N**

Relator Stephen Carlson established a state unemployment insurance benefit account on August 31, 2008. Respondent DEED determined the amount of his benefit as \$293 per week with a maximum benefit amount of \$7,618 for the benefit year ending August 29, 2009. Carlson exhausted these benefits on July 25, 2009, making him eligible for federal emergency unemployment compensation (EUC) benefits in the amount of \$293 per week with a maximum benefit of \$5,860. Carlson received EUC benefits through August 29, 2009, when the state benefit year ended.

Carlson established a new state benefit account on August 30, 2009, and DEED determined the amount of his benefit as \$269 per week with a maximum benefit of \$5,509 for the benefit year ending August 28, 2010. Carlson exhausted these benefits before the end of the state benefit year. Because he had not yet exhausted the EUC benefits available for the August 2008 – August 2009 benefit year, EUC benefit payments resumed in the amount of \$293 per week until the end of the state benefit year.

On September 12, 2010, Carlson established a new state benefit account. DEED determined that his weekly benefit from this account would be \$110 per week with a

maximum benefit of \$2,860 for the benefit year ending September 10, 2011.<sup>1</sup> Because Carlson had again become eligible for a state benefit account, he was not eligible to receive his remaining EUC benefits at the 2008-2009 level until he exhausted his state account for the benefit year ending September 10, 2011. But Carlson appealed the determination of benefits, arguing that under the provisions of the Act, he was entitled to deferment of state-benefit-year payments and receipt of EUC benefits until the remainder of the EUC benefits for which he qualified was fully disbursed.

After a hearing, the ULJ held that section 3 of the Act, on which Carlson based his claim, does not apply to Carlson. We agree. By its plain language, the Act applies only to applicants whose EUC benefit year expires after the July 22, 2010 enactment date. 26 U.S.C. § 3304, note; Pub. L. 111–205, § 3(b)(2010).<sup>2</sup> The benefit year for which Carlson was entitled to EUC benefits ended on August 29, 2009, notwithstanding that, under the terms of the 2008 Supplemental Appropriations Act, he could continue to receive benefits from that account after exhausting state benefits in any benefit year, until the federal account was exhausted. *See* Pub.L. 110–252, §§ 4001(b)(1)–(3) and 4002 (2008). The

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<sup>1</sup>Carlson was working part time with earnings that exceeded the weekly benefit amount, which precluded him from receiving any benefits under the September 12, 2010 benefit account when it was established.

<sup>2</sup> Pub.L. 111-205, § 3(b), July 22, 2010, 124 Stat. 2238, provides that: “The amendment made by this section [adding subsec. (g) to section 4002 of Pub.L. 110-252, set out in a note] shall apply to individuals whose benefit years, as described in section 4002(g)(1)(B) the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note), as amended by this section [subsec. (g)(1)(B) of section 4002 of Pub.L. 111-252], expire after the date of enactment of this Act [July 22, 2010].”

ULJ reaffirmed this decision on reconsideration and Carlson appealed by writ of certiorari.<sup>3</sup>

On appeal, Carlson insists that the Act applies to him. He alleges that the ULJ and DEED have violated his statutory rights and a number of constitutional rights. In this appeal, he attempts to assert an action against the ULJ and DEED under 42 U.S.C. §1983, and he requests to be allowed to prove damages. Because the ULJ and DEED did not err by ruling that the Act does not apply to Carlson, the ULJ and DEED did not err in the determination of his benefits for the account established in September 2010, and did not err by holding that the Act does not apply to Carlson for that benefit year. There is no merit to Carlson's assertions that his statutory or constitutional rights have been violated or that he is entitled to damages, even if such relief were within the scope of this appeal.

**Affirmed.**

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<sup>3</sup> After Carlson initiated this appeal, he withdrew his September 12 benefit account, which he was able to do only because he had not received any payments from that account. *See* Minn. Stat. § 268.07, subd. 3b (c) (2010) (setting out the necessary conditions for withdrawing a benefit account, which include the condition that “the applicant has not been paid any unemployment benefits on that benefit account”). Carlson then established another benefit account in December 2010, based, in part, on the same employment underlying the September account. There is no longer a benefit account covering the benefit year from September 12, 2010 – September 10, 2011, and DEED correctly argues that, having withdrawn this account, Carlson is not entitled to any monetary relief. A separate appeal is pending concerning the account Carlson established in December, raising almost identical issues.