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Minn. Stat. § 480A.08, subd. 3 (2006).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-1154**

Dean W. Alinder,
Relator,

vs.

Department of Employment and Economic Development,
Respondent.

**Filed June 10, 2008
Affirmed
Minge, Judge**

Department of Employment and Economic Development
File No. 712 07

Dean W. Alinder, 5725 Portland Avenue, White Bear Lake, MN 55110 (pro se relator)

Lee B. Nelson, Katrina I. Gulstad, Department of Employment and Economic
Development, First National Bank Building, 332 Minnesota Street, Suite E200, St. Paul,
MN 55101-1351 (for respondent)

Considered and decided by Connolly, Presiding Judge; Stoneburner, Judge; and
Minge, Judge.

UNPUBLISHED OPINION

MINGE, Judge

Relator challenges the determination of the unemployment law judge (ULJ) that
he was ineligible to receive the remainder of funds in his unemployment-benefits account
after his initial benefit year ended. Because we conclude that the ULJ correctly applied

the relevant provisions of the unemployment insurance law and because that law provides that unemployment benefits shall not be allowed or denied on the basis of equitable or common law principles, we affirm.

FACTS

Relator Dean W. Alinder worked for Minnesota Mining and Manufacturing Co. (3M) from January 17, 1972, through September 30, 2005, when 3M closed the plant where he worked. Before the plant closed, employees were provided with information about unemployment benefits. After separation from 3M, Alinder established an unemployment-benefits account effective December 4, 2005, with a weekly benefit amount of \$515 and a maximum benefit-year amount of \$13,390. However, because Alinder received 3M severance pay in the amount of \$59,382, the Minnesota Department of Employment and Economic Development (DEED) notified him that he would be ineligible to receive benefits until September 16, 2006.

On September 17, 2006, Alinder reactivated his benefit account and began receiving benefit payments through the week ending December 2, 2006, when he learned his benefit year had ended and his payments stopped. Alinder attempted to restart his benefit payments, but DEED notified him that he was no longer eligible to receive them. Alinder appealed, and a ULJ affirmed DEED's determination on the grounds that Alinder's initial benefit year had expired and that he did not meet the requirements for establishing a second benefit account. This certiorari appeal follows.

DECISION

When reviewing an unemployment-benefits decision, this court may affirm the decision, remand for further proceedings, or reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because the decision is affected by error of law, is unsupported by substantial evidence, or is arbitrary or capricious. Minn. Stat. § 268.105, subd. 7(d)(4)–(6) (2006). We view the ULJ’s factual findings in the light most favorable to the decision. *Skarhus v. Davanni’s, Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). We will not disturb factual findings that are sustained by substantial evidence. *Id.* Whether an employee is eligible to receive unemployment benefits is a question of law, requiring statutory analysis, which this court reviews de novo. *Bukkuri v. Dep’t of Employment and Econ. Dev.*, 729 N.W.2d 20, 21 (Minn. App. 2007).

The primary issue is whether Alinder is entitled to exhaust the maximum benefit amount allowed for his first benefit year.

When an applicant applies for unemployment benefits, the commissioner of DEED makes a “determination of benefit account,” which includes determining a base period and benefit year. Minn. Stat. § 268.07, subd. 1(b) (2006).¹ A “benefit year” is the period of 52 calendar weeks beginning the date a benefit account is established. Minn. Stat. § 268.035, subd. 6 (2006). Under Minn. Stat. § 268.07, subd. 3b(b) (2006), a benefit account, once established, may later be withdrawn only if (1) a new benefit

¹ Because the events giving rise to this dispute occurred in September and December of 2006, we refer to the 2006 Minnesota Statutes despite Alinder’s separation from employment in 2005.

application is filed and a new benefit account is established at the time of the withdrawal; and (2) the applicant has not previously served a “waiting week” pursuant to section 268.085, subdivision 1, clause 5. In order to establish a second benefit account following the expiration of a benefit year on a prior benefit account, the applicant must have worked in covered employment after the effective date of the prior benefit account. Minn. Stat. § 268.07, subd. 3. Eligibility for unemployment benefits requires compliance with the law; there is no equitable or common law entitlement to benefits. Minn. Stat. § 268.069, subd. 3 (2006).

Here, it is uncontested that Alinder established a benefit account running through December 2, 2006, and did not withdraw the account after DEED notified him that severance payments disqualified him from receiving benefits until after September 16, 2007. Following that period of ineligibility, the record indicates that Alinder served a waiting week and started receiving unemployment payments based on the 52-week benefit year he had originally established. Moreover, Alinder does not claim that he performed services in covered employment after the effective date of his initial account. Accordingly, the record is clear that Alinder could not establish a second benefit account or continue receiving benefits after December 2, 2006, even though he had not exhausted the maximum benefit of \$13,390.

Alinder does not challenge the ULJ’s determination that he is ineligible for a second benefit account. Alinder states that his goal was only to obtain the full amount of benefits allotted to him when he established the first account. During the hearing, Alinder pointed out that DEED never informed him that he needed to withdraw the first

account or furnished him with written material that an average person could understand explaining how to maintain eligibility for benefits.

We recognize Alinder's dilemma and the perceived unfairness of the situation. If Alinder had known that he needed to withdraw the first account, he could have done so, reestablished a new benefit account on September 17, 2006, and preserved his right to continue receiving benefit payments after December 2, 2006. DEED asserts that the statutes governing the establishment and withdrawal of benefit accounts are clear and that the department took steps to provide Alinder with the information he needed to decide for himself whether the initial benefit account should be withdrawn. However, it is possible that an unemployed person in Alinder's position could not determine from the DEED pamphlet in the record of this proceeding that severance payments would make him ineligible to receive benefit payments during part of an initial benefit year and that to maintain eligibility for full benefits he would have to withdraw his premature application and re-file for a new year.

As previously noted, the legislature has determined that "[t]here shall be no equitable or common law denial or allowance of unemployment benefits." Minn. Stat. § 268.069, subd. 3. Under this statutory provision, we are precluded from granting such relief. Accordingly, we conclude that the ULJ did not err by denying Alinder's request for the maximum benefit year amount allotted to him when he established the original account and affirm.

Affirmed.

Dated: