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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-1500**

Santrysa D. Jackson,
Relator,

vs.

Department of Employment and Economic Development,
Respondent.

**Filed September 16, 2008
Affirmed
Halbrooks, Judge**

Department of Employment and Economic Development
File No. 8421 07

Santrysa Jackson, 410 Layman Lane, Bloomington, MN 55420 (pro se relator)

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

Considered and decided by Halbrooks, Presiding Judge; Peterson, Judge; and
Collins, Judge.*

* Retired judge of the district court, serving by appointment pursuant to Minn. Const. art.
VI, § 10.

UNPUBLISHED OPINION

HALBROOKS, Judge

Relator challenges the determination by the unemployment law judge (ULJ) that she is ineligible for unemployment benefits, arguing that she had “good cause” for not timely filing as that term is defined by Minn. Stat. §§ 268.069, .086, subs. 8-9 (2006). We affirm.

FACTS

Pro se relator Santrysa Jackson established an unemployment benefit account effective January 22, 2006, with a weekly benefit amount of \$240 and a maximum benefit amount of \$6,240. On February 10, 2006, the Department of Employment and Economic Development (department) made an initial determination that relator was disqualified from receiving benefits because it concluded that she was discharged for employment misconduct. The ULJ agreed that relator was discharged for misconduct and affirmed the decision on reconsideration.

Relator challenged that determination and petitioned this court for a writ of certiorari. The department advised this court that it supported a reversal of the ULJ’s decision. This court reversed the ULJ’s conclusion that relator was discharged for misconduct and disqualified for unemployment benefits in *Jackson v. U.S. Bank, N.A.*, No. A06-1005 (Minn. App. Mar. 26, 2007) (order op.).

While her first appeal was pending, relator filed a series of claims for benefits for the period of January 22, 2006 through February 4, 2006. Relator did not contact the department again until March 22, 2006, and the department reopened her account

effective March 5, 2006. Relator made another timely claim for benefits from March 5, 2006 until April 15, 2006, and then did not contact the department again until May 30, 2006. Relator reopened her account effective May 14, 2006, but did not file for benefits at that time. Relator contacted the department again on June 27, 2006, and reopened her account, effective June 11, 2006, making a timely claim for benefits from June 11, 2006 to July 8, 2006. She did not contact the department again until August 14, 2006, when she again reopened her account, effective July 30, 2006, and made a timely claim for benefits until October 7, 2006.

Following this court's opinion in *Jackson*, the department issued a check to relator for \$4,800 for benefits for the weeks that she had claimed while her appeal was pending. Relator subsequently realized that she had not exhausted the maximum amount of benefits available to her and that there were weeks for which she failed to file a timely claim for benefits.

Relator contacted the department and requested an opportunity to claim benefits for the weeks that she had not received payment. The department sent relator forms to claim benefits for the period of October 8, 2006 through December 2, 2006, which she filled out and returned. On May 7, 2007, the department concluded that relator was ineligible to receive benefits from October 8, 2006 through December 2, 2006, because her request for benefits was not timely. Relator challenged this conclusion, and a ULJ conducted a hearing. The ULJ determined that because relator failed to make a timely request for benefits, she was ineligible for the periods of February 5, 2006 through March

4, 2006; April 16, 2006 through June 10, 2006; July 9, 2006 through July 29, 2006; and October 8, 2006 through December 2, 2006. This certiorari appeal follows.

D E C I S I O N

The issue before us is whether the ULJ erred by determining that relator is ineligible for unemployment benefits for specific weeks because she failed without good cause to file timely requests. This court may overturn or modify a ULJ's decision if

the substantial rights of the petitioner may have been prejudiced because the findings, inferences, conclusion, or decision are:

- (1) in violation of constitutional provisions;
- (2) in excess of the statutory authority or jurisdiction of the department;
- (3) made upon unlawful procedure;
- (4) affected by other error of law;
- (5) unsupported by substantial evidence in view of the entire record as submitted; or
- (6) arbitrary or capricious.

Minn. Stat. § 268.105, subd. 7(d) (2006).

An applicant for unemployment benefits must meet the requirements of Minn. Stat. § 268.069, subd. 1 (2006), and all of the ongoing eligibility requirements of Minn. Stat. §§ 268.085, .086 (2006). To be eligible for benefits, section 268.085 requires “an active benefit account and . . . a continued biweekly request for unemployment benefits for that week, pursuant to section 268.086.” Minn. Stat. § 268.085, subd. 1(1).

Section 268.086 states:

- (a) A benefit account shall be considered active only when an applicant files continued biweekly requests for unemployment benefits in the manner and within the time periods prescribed. A benefit account shall be considered inactive if an applicant stops filing a continued biweekly

request or fails to file a continued biweekly request within the time period required. The benefit account shall be considered inactive as of the Sunday following the last week or biweekly period for which a continued biweekly request has been timely filed.

(b) A benefit account that is inactive shall be reactivated the Sunday of the week that the applicant makes a contact with the department to do so, in the manner prescribed by the commissioner for reactivating that applicant's benefit account. Upon specific request of an applicant, a benefit account may be reactivated effective up to two weeks prior to the week the applicant made contact with the department to reactivate.

Minn. Stat. § 268.086, subd. 1. This section requires that continued requests be filed in the manner prescribed by the commissioner; if not, the applicant's account is declared inactive. *Id.* But the statute creates an exception to the requirement of biweekly requests if an applicant has "good cause" for not filing within the required time period. *See* Minn. Stat. § 268.086, subd. 8. As defined in the statute, "good cause" is a

compelling substantial reason that would have prevented a reasonable person acting with due diligence from filing a continued biweekly request for unemployment benefits within the time periods required.

"Good cause" shall not include forgetfulness, loss of the continued biweekly request form, having returned to work, or inability to file a continued biweekly request for unemployment benefits by the method designated if the applicant was aware of the inability and did not make diligent effort to have the method of filing a continued biweekly request changed by the commissioner.

Minn. Stat. § 268.086, subd. 9.

Relator asserts that she had good cause for not filing the biweekly requests that were required to keep her benefit account active. She claims that a lack of knowledge

about how many weeks remained on her benefit account is sufficient to establish good cause. But section 268.086 contains no exception for what relator argues is a lack of knowledge, and the facts here demonstrate that relator's argument lacks merit.

Relator had the department's benefits handbook that advises: "If you do not request payments as scheduled and answer the questions regarding your ongoing eligibility for the two-week period, *you will be denied benefits for that period.*" And the record shows that relator reactivated her account on multiple occasions and then claimed benefits from her newly reactivated account. By reactivating her account, relator demonstrated that she knew that she was still eligible for benefits, and she admitted in her testimony that, when she spoke with the department, she was told to "just keep requesting" her benefits. Relator also asserts that the department failed to send her forms in May 2007 to request benefits for weeks in 2006. But loss of the continued biweekly request form is not "good cause" for failure to request benefits. Minn. Stat. § 268.086, subd. 9.

Addressing relator's argument that she mistakenly thought that reopening an account eliminated the need to request specific benefits, the ULJ stated:

The Department has information on the Internet about claiming benefits. The Department also has boilerplate on its decisions instructing applicants to keep requesting benefits while issues are under appeal. The Department did not do anything to prevent [relator] from timely filing requests for benefits. [Relator] knew how to claim the first two weeks she claimed and other weeks she claimed thereafter. It is not convincing that [relator] would think getting her account reopened would constitute claiming any specific weeks. [Relator] knew she had to answer eligibility questions for each week she claimed benefits. [Relator] knew after talking

to the appeals office in March 2006 and reopening her account, that she had to keep claiming while under appeal. [Relator]'s failure to keep track of what weeks she had claimed and where there were gaps is not good cause.

On this record, we conclude that the ULJ correctly determined that relator did not have "good cause" for her failure to timely request additional benefits for the periods of February 5, 2006 through March 4, 2006; April 16, 2006 through June 10, 2006; July 9, 2006 through July 29, 2006; and October 8, 2006 through December 2, 2006.

Affirmed.