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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-0126**

Richard J. Rosson,
Relator,

vs.

Department of Employment and Economic Development,
Respondent.

**Filed April 22, 2008
Affirmed in part and reversed in part
Halbrooks, Judge**

Department of Employment and Economic Development
File No. 13788 06

Richard J. Rosson, 8206 Old Cedar Avenue South, Bloomington, MN 55425 (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 department)

Considered and decided by Klaphake, Presiding Judge; Halbrooks, Judge; and Schellhas, Judge.

UNPUBLISHED OPINION

HALBROOKS, Judge

Relator challenges an unemployment law judge's (ULJ) decision that he is ineligible for unemployment benefits because he failed to maintain an active benefits account and argues that the ULJ erred in determining the effective date of his benefits

account. Because a statute enacted after the ULJ's decision specifically addresses and resolves the eligibility-for-benefits issue in favor of relator, we reverse the ULJ on that issue. But because the ULJ correctly determined the effective date of relator's benefits account, we affirm the ULJ on the second issue.

FACTS

Relator Richard J. Rosson was a mechanic for Northwest Airlines, Inc., and a member of the Aircraft Mechanics Fraternal Association (AMFA). Rosson stopped working for Northwest on Saturday, August 20, 2005, due to a labor dispute between AMFA and Northwest. AMFA advised its members to apply for unemployment benefits.

On September 12, 2005, approximately three weeks after the strike started, Rosson applied for unemployment benefits with respondent Department of Employment and Economic Development (DEED) through DEED's website. DEED backdated the effective date of Rosson's unemployment-benefits account to Sunday, September 4, 2005. DEED also mailed Rosson a handbook that, among other things, stated in bold print that Rosson must continually request unemployment benefits as instructed in the handbook in order to maintain an active unemployment-benefits account and receive benefits. The handbook also stated in bold print that Rosson must continue to request unemployment benefits even if an appeal regarding the denial of benefits was pending. Rosson testified that he received but did not read the handbook.

Several weeks after Rosson established his unemployment-benefits account, DEED issued a determination that no AMFA mechanics were eligible for benefits and that the mechanics would remain ineligible as long as the current labor dispute with

Northwest was in progress. The AMFA sent their members a letter explaining DEED's decision and stating that they were appealing the denial of benefits. Thus, Rosson was aware of DEED's determination that striking AMFA mechanics were not eligible for unemployment benefits. As a result, Rosson did not continually request benefits during the pendency of AMFA's appeal because he did not think such requests were necessary unless and until DEED's decision to deny benefits was overturned on appeal.

On September 12, 2006, this court held that the ULJ erred as a matter of law in determining that mechanics were not eligible for unemployment benefits.¹ Rosson subsequently sought unemployment benefits for the period of time beginning on the day after the strike began (August 21, 2005) to the last day that Rosson was unemployed (February 25, 2006). DEED determined that Rosson was ineligible to receive benefits for this time period because he failed without good cause to make timely requests for benefits. This certiorari appeal follows.

D E C I S I O N

This court may reverse or modify a ULJ's decision if the employee's substantial rights have been prejudiced because the ULJ's findings, inferences, conclusion, or decision are affected by error of law, unsupported by substantial evidence, or are arbitrary and capricious. Minn. Stat. § 268.105, subd. 7(d) (Supp. 2005). Rosson argues that he had "good cause" for failing to timely request benefits under Minn. Stat. § 268.086, subd. 8 (2004).

¹ See *Aircraft Mechs. Fraternal Ass'n Members v. Nw. Airlines, Inc.*, Nos. A05-2128, A05-2379 (Minn. App. Sept. 12, 2006), *review denied* (Minn. Oct. 17, 2006).

In order to receive unemployment benefits pursuant to Minn. Stat. §§ 268.085, subd. 1, .086 (2004 & Supp. 2005), an applicant is required to maintain an active benefits account and to request benefits biweekly. At the time that the ULJ issued her decision denying benefits to Rosson, it correctly reflected the current law.

But in 2007, the Minnesota Legislature passed a statute that provides:

Section 1. UNEMPLOYMENT BENEFITS; CONTINUED REQUEST TIME PERIOD WAIVER.

Notwithstanding the requirements of Minnesota Statutes, sections 268.085, subdivision 1, clause (1), and 268.086, the commissioner must accept continued requests for unemployment benefits and pay unemployment benefits to an applicant who:

(1) was employed as a technician or inspector for Northwest Airlines, Inc., prior to August 20, 2005;

(2) stopped working on or about August 20, 2005, because of a labor dispute between the Aircraft Mechanics Fraternal Association (AMFA) and Northwest Airlines, Inc.;

(3) did not file continued requests for unemployment benefits within the time periods required under Minnesota Statutes, section 268.086; and

(4) meets all the other requirements for the payment of unemployment benefits under Minnesota Statutes, section 268.069, subdivision 2.

2007 Minn. Laws ch. 128, art. 8, § 1, at 1032. DEED concedes that Rosson's request for benefits falls within the scope of this law and therefore he is eligible for unemployment benefits. DEED calculated his period of eligibility to run from September 4, 2005, to February 25, 2006. We agree that relator is eligible for unemployment under the recently enacted law.

The remaining dispute concerns the date on which Rosson's eligibility for unemployment benefits begins. He sought benefits beginning on Sunday, August 21,

2005 (the date the strike started). Neither party disputes the February 26, 2006 date for benefit termination.

The interpretation of a statutory provision to undisputed facts is a question of law, which this court reviews de novo. *Reider v. Anoka-Hennepin Sch. Dist. No. 11*, 728 N.W.2d 246, 249 (Minn. 2007). Minn. Stat. § 268.085, subd. 2 (Supp. 2005), states that an applicant is not eligible to receive unemployment benefits for “any week . . . that occurs before the effective date of a benefit account.” A benefits account is effective the Sunday of the week that the application for benefits is filed. Minn. Stat. § 268.07, subd. 3b(a) (Supp. 2005). If the applicant was also unemployed during the immediately preceding week, the effective date of an unemployment-benefits account can be backdated to the preceding Sunday, if an applicant requests it. *Id.*

We recently addressed the application of Minn. Stat. § 268.07, subd. 3b(a), in the context of a claim where the applicant sought benefits from the date he became unemployed as opposed to the date he applied for unemployment benefits. *Bukkuri v. Dep’t of Employment & Econ. Dev.*, 729 N.W.2d 20, 20 (Minn. App. 2007). We held that when an applicant is unemployed for more than one week before requesting benefits, “under Minn. Stat. § 268.07, subd. 3b(a) (Supp. 2005), an application for unemployment benefits may be backdated only one calendar week prior to the Sunday of the week the application was filed.” *Id.*

Rosson applied for unemployment benefits with DEED via the Internet on September 12, 2005. DEED then properly backdated the effective date of his account by

one week to Sunday, September 4, 2005. We therefore affirm the ULJ's determination of the time frame within which Rosson is eligible to receive unemployment benefits.

Affirmed in part and reversed in part.