

*This opinion will be unpublished and may not be cited except as provided by Minn. Stat. § 480A.08, subd. 3 (2008).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A08-1144**

Joseph K. Benson,  
Relator,

vs.

Department of Employment and Economic Development,  
Respondent.

**Filed May 19, 2009  
Affirmed  
Stauber, Judge**

Department of Employment and Economic Development  
File No. 20815209-2

Joseph K. Benson, 808 Wollak Way, Sauk Rapids, MN 56379-2780 (pro se relator)

Lee B. Nelson, Katrina I. Gulstad, Minnesota Department of Employment and Economic Development, Suite E200, 1st National Bank Building, 332 Minnesota Street, St. Paul, MN 55101-1351 (for respondent)

Considered and decided by Stauber, Presiding Judge; Minge, Judge; and Larkin, Judge.

**UNPUBLISHED OPINION**

**STAUBER**, Judge

Relator challenges the decision by the unemployment law judge that he was not eligible for a second benefit year. Because relator cannot meet the statutory requirements for a second benefit account under Minn. Stat. § 268.07, subd. 3 (2006), we affirm.

## FACTS

In December 2006, relator Joseph Benson's employment with All State Communications (All State) was terminated. Although relator's last day of work was December 29, 2006, All State "continued paying [relator his] weekly salary for . . . eight weeks." Relator subsequently filed an application for unemployment benefits and established a benefit account effective January 21, 2007. Relator was determined to be eligible for unemployment benefits, but he was determined to be ineligible for benefits for the period between January 21, 2007 and February 23, 2007, because of his receipt of eight weeks of pay after his last day of work. In March 2007, relator started receiving unemployment benefits, and he continued to receive unemployment benefits until he exhausted his maximum benefit entitlement in October 2007.

After the expiration of his benefit year, relator filed another application for unemployment benefits effective January 20, 2008. The department concluded that relator was not entitled to a second benefit account because relator was not paid wages greater than or equal to eight times his previous account's weekly benefit amount. Relator appealed the department's decision, and a hearing was held on the matter. At the hearing, relator conceded that he did not perform any work for All State after December 29, 2006, or other qualifying employment. The unemployment law judge (ULJ) subsequently issued his decision concluding that relator could not "establish a second benefit account following the expiration of a benefit year" because he could not meet the requirements for a second benefit account under Minn. Stat. § 268.07, subd. 3 (2006).

Relator sought reconsideration of the ULJ's decision, and after reconsideration, the ULJ issued an order affirming his decision. This certiorari appeal followed.

## D E C I S I O N

When reviewing an unemployment-benefits decision, this court may affirm the decision, remand for further proceedings, 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) (Supp. 2007). We view the ULJ's factual findings in the light most favorable to the decision, and we will not disturb factual findings that are sustained by substantial evidence. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). 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).

An applicant for benefits may establish a second benefit account only when certain circumstances exist:

To establish a second benefit account following the expiration of a benefit year on a prior benefit account, an applicant must have sufficient wage credits to establish a benefit account under subdivision 2 and must have performed services in covered employment after the effective date of the prior benefit account. The wages paid for that employment must equal not less than eight times the weekly unemployment benefit amount of the prior benefit account. The purpose of this subdivision is to prevent an applicant from establishing more than one benefit account as a result of one loss of employment.

Minn. Stat. § 268.07, subd. 3 (2006).

Here, the ULJ found that “the evidence shows that [relator] has not performed services in covered employment after the effective date of the prior benefit account (January 21, 2007).” The ULJ noted that relator did receive some monetary payments from All State after January 21, 2007, but did not perform any services for these payments. Thus, the ULJ concluded that, based Minn. Stat. § 268.07, subd. 3, relator could not establish a second benefit account.

Relator appears to argue that he is entitled to a second benefit account under Minn. Stat. § 268.07, subd. 3, because he performed services for All State after January 21, 2007. Relator appears to contend that the services he performed consisted of his compliance with a “contract” with All State that he signed on December 29, 2006, in which All State offered relator an eight-week severance package that was revocable by All State if relator violated the confidentiality of the company. But the “contract” to which relator refers is simply a letter to relator from All State terminating relator’s employment with the company and offering him an eight-week severance package that was revocable if relator violated the confidentiality of the company. Although relator did not violate the confidentiality agreement, this does not constitute a performed service for which relator received compensation from All State. In fact, relator admitted at the hearing that he did not perform any work for All State after December 29, 2006. Moreover, relator does not allege that he worked anywhere else after his employment with All State terminated. Accordingly, relator cannot establish that he is entitled to a second benefit account under Minn. Stat. § 268.07, subd. 3.

Relator also appears to argue that the department's website does not adequately inform the public of the requirements to establish a second benefits account pursuant to Minn. Stat. § 268.07, subd. 3. But as the department points out, it is unclear what relator would have done differently had the website been more clear. All relator could have done differently would be not apply for benefits. He certainly is not entitled to a second benefit account simply because information about second benefit applications was not available on the website.

Relator further argues that the department violated the statutory language of Minn. Stat. § 116J.0124 (2006), which requires that the material provided by the department be written in plain language. Relator appears to argue that the handbook provided by the department did not adequately explain the requirements to establish a second benefit account. But the handbook provided by the department is not intended to be an exhaustive explanation of every statute pertaining to unemployment benefits. Rather, the handbook condenses voluminous material regarding unemployment benefits into a readable handbook. If relator was unable to understand the necessary requirements to establish a second benefit account, he should have inquired further on the subject. Moreover, relator's ability to understand the plain language of the department's materials has no bearing on whether relator is entitled to a second benefit account. As noted above, the record reflects that relator does not meet the statutory requirements for establishing a second benefit account under Minn. Stat. § 268.07, subd. 3. Accordingly, the ULJ did not err in denying relator's claim for a second benefit account.

**Affirmed.**