

109-895

STATE OF MINNESOTA  
IN COURT OF APPEALS



**In the Matter of:**

**Nathaniel McNeilly,**

**Relator,**

**and**

**Department of Employment  
& Economic Development**

**Respondent.**

**RELATOR'S INFORMAL BRIEF**

**Nathaniel McNeilly  
Pro Se  
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Mayer, MN 55360  
612-328-4565**

I submit this Informal Brief in support of my appeal of the Unemployment Law Judge's Order dated April 20, 2009. The issue on appeal is whether I was actively seeking employment during the time I maintained an unemployment benefit account with the Minnesota Department of Employment and Economic Development.

### FACTS

The affidavits and testimony previously submitted along with the following facts clearly demonstrate I was actively seeking employment during the required time period.

The week of December 17, 2007 I contacted Mr. Justin Ogg of Tousley Motorsports in pursuit of employment and for career networking purposes. That same week I also met with Mr. Rod Maetzold of Mayer Lumber in pursuit of employment and for networking purposes.

The week of December 24, 2007, I met with Mr. Jon Maetzold of Maetzold Homes for possible employment during the 2007/2008 winter season.

The week of December 31, 2007, I met with Mr. Patrick Esser of Esser Automotive in pursuit of employment. That same week I met with Bob Carlson of Bob's Repair concerning possible employment during the 2007/2008 winter season.

The week of January 7, 2008, I contacted Mr. Rod Maetzold of Mayer Lumber to see if any job opportunities were available.

On January 9, 2008 I attended the MNLA (Minnesota Landscaping Association) Convention at the Minneapolis Convention Center.

The week of January 14, 2008, I contacted Mr. Justin Ogg of Tousley Motorsports to discuss possible sales positions available.

The week of January 21, 2008, I contacted Mr. Jon Maetzold of Maetzold homes and Rod Maetzold of Mayer Lumber for any new job opportunities for the week.

The week of January 28, 2008, I contacted Mr. Pat Esser of Esser Automotive and Mr. Rod Maetzold of Mayer Lumber about possible employment opportunities available.

The week of February 4, 2008, I maintained contact with Mr. Justin Ogg of Tousley Motorsports for any openings. That same week I met with Rod Maetzold of Mayer Lumber about possible employment.

The week of February 11, 2008, I networked with Mr. Pat Esser of Esser Automotive on any job opportunities.

The week of February 18, 2008, I contacted Mr. Rod Maetzold of Mayer Lumber about any openings. I also met with Bob Carlson of Bob's Repair for possible employment.

The week of February 25, 2008, I contact Mr. Justin Ogg of Tousley Motorsports about any new sales positions and networked about any openings in the service department. That same week I met with Jon Maetzold of Maetzold Homes.

The week of March 3, 2008, I contacted Mr. Rod Maetzold of Mayer Lumber to see if any job opportunities were available.

On March 7, 2008, I attended the Hedberg Educational Day.

The week of March 10, 2008, I networked with Mr. Justin Ogg of Tousley Motorsports for any job openings. That same week I maintained in contact with Rod Maetzold of Mayer Lumber about possible employment.

The week of March 17, 2008, I networked with Mr. Bob Carlson of Bob's Repair for any job opportunities that week.

The week of March 24, 2008, I contacted Mr. Pat Esser of Esser Automotive on any job opportunities.

The week of March 31, 2008, I met with Mr. Rod Maetzold of Mayer Lumber to see if any job opportunities were available.

The week of April 7, 2008, I contacted Jon Maetzold of Maetzold Homes about any possible work for the week.

The week of April 14, 2008, I returned to work as a Foreman for Keenan & Sveiven.

The week of December 15, 2008, I contacted and networked with Justin Ogg of Tousley Motorsports, Pat Esser of Esser Automotive, Jon Maetzold of Maetzold Homes, and Rod Maetzold of Mayer Lumber for possible employment for the 2008/2009 winter season.

The week of December 22, 2008, I met with Rod Maetzold of Mayer Lumber to discuss opportunities for this week.

The week of December 29, 2009, I contacted Bob Carlson of Bob's Repair about possible job opportunities during the winter months of January, February, and March 2009.

The week of January 5, 2008, I maintained contact with Mr. Rod Maetzold of Mayer Lumber about any openings. I also contacted Bob Carlson of Bob's Repair for possible employment.

On January 7, 2009, I attended the MNLA (Minnesota Landscape Association) Convention at the Minneapolis Convention Center.

The week of January 12, 2009, I contacted Mr. Jon Maetzold of Maetzold homes for any new job opportunities for the week.

The week of January 19, 2009, I met Mr. Pat Esser of Esser Automotive on any work available this week.

The week of January 26, 2009, I maintained contact with Mr. Rod Maetzold of Mayer Lumber about any openings that week. I also contacted Justin Ogg of Tousley Motorsports for any possible sales positions available.

The week of February 2, 2009, I networked with Mr. Rod Maetzold of Mayer Lumber to see if any job opportunities were available.

The week of February 9, 2009, I maintained contact with Mr. Jon Maetzold of Maetzold homes for any new job opportunities for the week.

The week of February 16, 2009, I maintained contact with Mr. Rod Maetzold of Mayer Lumber to see if any job opportunities were available.

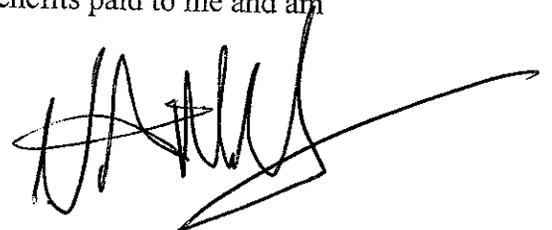
The week of February 23, 2009, I networked with Mr. Justin Ogg of Tousley Motorsports for any job openings.

### REASONING AND CONCLUSION

The facts clearly show my intense efforts to obtain employment from December 2007 through February 2009 and there after. As a result, I am entitled to the unemployment benefits I received. Even if, Respondent is not satisfied with my job search efforts Minnesota law allows seasonal workers to collect unemployment while they are laid off from their seasonal jobs. According to the case *Herbst v. Northern States Power Co*, 432N.W.2d 463, 468 (Minn.App.1988) "Industry custom allows construction workers to receive unemployment benefits in the winter because employment is typically seasonal." My employer Keenan & Sveiven is a high end Landscaping company. They do not perform snow removal or winter related landscaping. (Affidavit of Tim Sveiven attached). My employment is considered seasonal which allows me to collect unemployment benefits in the winter. Minnesota Statue M.S.A 268.101 states that if the reason reported for no longer being employed is a layoff because of lack of work there is not an issue of ineligibility.

I was hired back as a foreman for Keenan & Sveiven on April 11, 2009. During both winter seasons 2007/2008 and 2008/2009 I fulfilled my requirements for Keenan & Sveiven by attending seminars and training sessions during the winter season. (3/13/2009 – I attended Hedberg Education day and 3/18/2009 – I attended Gerten's Educational Day.) I also kept in regular contact with Keenan & Sveiven during both 2007/2008 and 2008/2009 winters. (Affidavit of Tim Sveiven attached.)

Under both theories I am fully entitled to the unemployment benefits paid to me and am not required to repay any benefits received.

A handwritten signature in black ink, appearing to be 'Tim Sveiven', written over a horizontal line.