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Minn. Stat. § 480A.08, subd. 3 (2008).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A09-2274**

Richard Anani,
Relator,

vs.

Department of Employment and Economic Development,
Respondent.

**Filed July 20, 2010
Affirmed
Shumaker, Judge**

Department of Employment and Economic Development
File No. 23580941-3

Richard K. Anani, Richfield, Minnesota (pro se relator)

Lee B. Nelson, Amy R. Lawler, Minnesota Department of Employment and Economic
Development, St. Paul, Minnesota (for respondent)

Considered and decided by Shumaker, Presiding Judge; Bjorkman, Judge; and
Willis, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

SHUMAKER, Judge

On appeal from an unemployment-law judge's determination that relator committed fraud while applying for unemployment benefits, relator contends that he did not intend to commit fraud when he failed to report his part-time work. We affirm.

FACTS

Richard Anani, relator, claims that the unemployment-law judge (ULJ) erred in the determination that he committed fraud when he knowingly failed to report his part-time work while applying for unemployment benefits.

Anani established an unemployment benefit account with the department of employment and economic development (DEED), effective October 5, 2008, after he was discharged from his full-time employment at Micro-Machine, Inc. Anani also worked part time for Speedway SuperAmerica, LLC (SuperAmerica) and did so at the time he established the benefit account and while he continued to apply for and receive unemployment benefits.

DEED provided Anani with an unemployment-insurance information handbook after he established a benefit account. In pertinent part, the handbook reads:

Report Earnings if You Are Working

Each time you request benefit payments, you are asked if you worked. You must always answer "yes" if you performed *any* work, even if it was temporary, part-time, or in self-employment. You must **report your total earnings . . .** includ[ing] wages, tips, salary, commission, cash, self-employment income, and the value of any rent, goods or services you receive for working.

Anani acknowledged that he received and read the section containing the above information.

Each week that Anani sought unemployment benefits, he was required to fill out an application. The first question on the application asked whether the applicant had worked or had a paid holiday during the previous week. The question specifically stated that work includes “Full Time, Part Time, Temporary Work, Self Employment or Volunteer Work.” Each week Anani answered “no” to this question. The second question asked whether the applicant received or applied for “income, from any other source” not previously reported. Anani also consistently answered “no” to this question.

On October 9, 2009, DEED determined that Anani had been overpaid benefits because of fraud. DEED determined that if Anani would have accurately reported his working status and earnings, he would have received \$1,256 less in unemployment benefits than he actually received for the period in question. DEED also assessed a \$502.40 fraud penalty.

Anani appealed DEED’s determination. After a telephone hearing, the ULJ affirmed DEED’s determination of overpayment of benefits because of fraud. Anani requested reconsideration, and the ULJ affirmed the previous decision. Anani now brings a certiorari appeal to this court.

D E C I S I O N

This court may affirm, or it may reverse, remand, or modify the decision of a ULJ if the substantial rights of the litigant may have been prejudiced because the findings, inferences, conclusion, or decision are affected by an error of law or are unsupported by

substantial evidence. Minn. Stat. § 268.105, subd. 7(d) (2008); *Ywswf v. Teleplan Wireless Servs., Inc.*, 726 N.W.2d 525, 529 (Minn. App. 2007). An “applicant who receives unemployment benefits by knowingly misrepresenting, misstating, or failing to disclose any material fact, or who makes a false statement or representation without a good faith belief as to the correctness of the statement or representation, has committed fraud.” Minn. Stat. § 268.18, subd. 2(a) (Supp. 2009). If it is determined that an applicant obtained unemployment benefits by fraud, the applicant must promptly repay the unemployment benefits, and the commissioner “must assess a penalty equal to 40 percent of the amount fraudulently obtained.” *Id.*

Anani admitted that he repeatedly failed to report income from his part-time job at SuperAmerica while applying for unemployment benefits, but claims that he made “a mistake or a misunderstanding or misreading something” and did not intend fraud. Nevertheless, the questions on the unemployment benefits application clearly asked whether Anani was working part time or receiving income from another source. Furthermore, Anani admitted that he had received, read, and understood the handbook. Anani claims that, based on what he read in the handbook, he did not report his part-time work because he did not think it would affect his eligibility for benefits. But the handbook states clearly that Anani was obligated to report any income.

It is possible that Anani believed that the questions he was asked related to his full-time job or that he did not have to report his part-time job because it did not affect his benefits. Whether an applicant knowingly failed to disclose material facts while requesting benefits is a credibility determination for the ULJ. *Burnevik v. Dep’t. of Econ.*

Sec., 367 N.W.2d 681, 683 (Minn. App. 1985). “Credibility determinations are the exclusive province of the ULJ and will not be disturbed on appeal.” *Skarhus v. Davanni’s, Inc.*, 721 N.W.2d 340, 345 (Minn. App. 2006). Substantial evidence supports the ULJ’s determination that Anani fraudulently failed to disclose his part-time job in his application for employment benefits. Given the clarity of the handbook, a mere mistake is not plausible. On this record, Anani has failed to show a reason that deference to the ULJ’s credibility determination would be inappropriate.

Affirmed.