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**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1499**

Donovan Baker,
Relator,

vs.

Department of Employment and Economic Development,
Respondent.

**Filed April 19, 2011
Affirmed
Bjorkman, Judge**

Department of Employment and Economic Development
File No. 24961345-2

Donovan Baker, Garrison, North Dakota (pro se relator)

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

Considered and decided by Bjorkman, Presiding Judge; Stoneburner, Judge; and Wright, Judge.

UNPUBLISHED OPINION

BJORKMAN, Judge

Relator challenges an unemployment-law judge's (ULJ) determination that he was overpaid benefits because he was ineligible to receive federal emergency unemployment compensation. We affirm.

FACTS

Relator Donovan Baker does not live in Minnesota but established an unemployment-benefits account in Minnesota under the reciprocal-benefits statute, Minn. Stat. § 268.131 (2010), based on wage credits earned in Minnesota, Montana, North Dakota, Wisconsin, and Colorado. Baker established the account on January 25, 2009, and exhausted the account in November 2009. Because he could not establish a new Minnesota account until January, Baker applied for and collected \$5,380 in federal emergency unemployment compensation (EUC) benefits in the interim.

Respondent Minnesota Department of Employment and Economic Development (DEED) subsequently learned that Baker was eligible for unemployment benefits under Colorado law during the time he received EUC benefits. DEED determined that Baker's eligibility for benefits in Colorado meant that he was ineligible to receive EUC benefits and was overpaid \$5,380.

Baker appealed that determination. After a telephonic hearing, the ULJ concluded that Baker was not entitled to the EUC benefits he received because he was eligible for Colorado benefits. The ULJ ordered Baker to repay the \$5,380 in EUC benefits. Baker sought reconsideration, and the ULJ affirmed. This certiorari appeal follows.

DECISION

Baker challenges the ULJ's overpayment determination. When reviewing the decision of a ULJ, we may affirm the decision, remand the case for further proceedings, or reverse or modify the decision if the substantial rights of the relator have been prejudiced. Minn. Stat. § 268.105, subd. 7(d) (2010). We review a ULJ's decision to

determine whether 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.” *Id.*

Although Baker challenges the ULJ’s overpayment determination, he does not assert that he was entitled to the EUC benefits he received. An applicant is eligible for EUC benefits only if the applicant meets the requirements of EUC law, as codified in Minnesota statutes, including that the applicant “has no right to any type of unemployment benefits under any other state or federal laws.” Minn. Stat. § 268.115, subds. 1(7)(ii), 3, 7 (2010); *see also* Federal-State Extended Unemployment Compensation Act of 1970, 26 U.S.C.A. § 3304 (West Supp. 2010). And it is undisputed that Baker was eligible for unemployment benefits in Colorado during the time he was receiving EUC benefits. We conclude that the ULJ did not err in determining that Baker was ineligible for EUC benefits.

The crux of Baker’s argument is that he should not be obligated to repay the EUC benefits because the overpayment resulted from DEED’s failure to provide him with accurate and timely information regarding his eligibility for benefits in Colorado. We disagree. Baker does not identify any authority imposing such an obligation on DEED, nor has our research revealed any such authority. To the contrary, the Minnesota Unemployment Insurance Law consistently indicates that it is incumbent on an applicant to provide all necessary information regarding eligibility for benefits and allows, but does

not require, DEED to reevaluate an applicant's eligibility if new information becomes available and to order repayment of benefits to which an applicant was not entitled. *See* Minn. Stat. §§ 268.069, subd. 1 (requiring DEED to pay benefits to an applicant who has met eligibility requirements), 268.07, subd. 1 (requiring applicant to provide "all requested information" and permitting DEED a two-year window to reconsider any determination of benefit account), 268.0865, subd. 1 (providing that a continuing request for unemployment benefits certifies that the applicant meets ongoing eligibility requirements) (2010).

DEED's failure to earlier inform Baker of his eligibility for benefits in Colorado does not affect his eligibility for EUC benefits or relieve him of responsibility for the overpayment. A person who receives unemployment benefits to which they were not entitled, "must promptly repay the unemployment benefits to the trust fund." Minn. Stat. § 268.18, subd. 1(a) (2010). Baker has not identified any exception to this rule. *Cf.* Minn. Stat. § 268.069, subd. 3 (2010) ("There is no equitable or common law denial or allowance of unemployment benefits."). Accordingly, we conclude that the ULJ did not err in determining that Baker is obligated to repay the \$5,380 he received in EUC benefits.

Affirmed.