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**STATE OF MINNESOTA
IN COURT OF APPEALS
A09-1875**

Wondwosen Meshesha,
Relator,

vs.

Imperial Parking Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed August 3, 2010
Affirmed
Kalitowski, Judge**

Department of Employment and Economic Development
File No. 22740649-3

Wondwosen Meshesha, St. Paul, Minnesota (pro se relator)

Imperial Parking Inc., Philadelphia, Pennsylvania (respondent)

Lee B. Nelson, Britt K. Lindsay-Waterman, Department of Employment and Economic
Development, St. Paul, Minnesota (for respondent Department of Employment and
Economic Development)

Considered and decided by Wright, Presiding Judge; Kalitowski, Judge; and Ross,
Judge.

UNPUBLISHED OPINION

KALITOWSKI, Judge

Pro se relator Wondwosen Meshesha challenges the unemployment-law judge's denial of his request for reconsideration of the decision that he is ineligible for unemployment benefits, arguing that (1) he did not receive notice of the evidentiary hearing, and (2) he was denied the opportunity to use an interpreter in filing his request for reconsideration. We affirm.

DECISION

In reviewing an unemployment-law judge's (ULJ) eligibility decision, we may affirm or remand the decision, or we may reverse or modify it if the relator's substantial rights have been prejudiced because the ULJ's findings or decision are, among other things, made upon unlawful procedure, affected by error of law, or unsupported by substantial evidence in the record. Minn. Stat. § 268.105, subd. 7(d) (Supp. 2009). We defer to a ULJ's decision not to hold an additional hearing and will reverse that decision only for an abuse of discretion. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 345 (Minn. App. 2006).

Notice of evidentiary hearing

Relator argues that the ULJ erred by denying his request for reconsideration because he did not receive notice of the evidentiary hearing. We disagree.

Upon a party's timely appeal of an eligibility determination, respondent Department of Employment and Economic Development (DEED) will conduct an evidentiary hearing before a ULJ. Minn. Stat. § 268.105, subd. 1 (Supp. 2009). DEED

must mail a notice of hearing, specifying the time, date, assigned ULJ, and the issues to be considered, to each party at the last known address at least ten days before the scheduled hearing. Minn. R. 3310.2910 (2009).

Following the evidentiary hearing and issuance of the ULJ's decision, the applicant may challenge the decision by filing a request for reconsideration. Minn. Stat. § 268.105, subd. 2(a) (Supp. 2009). If the applicant requesting reconsideration failed to participate in the evidentiary hearing, but shows good cause for failing to participate, the ULJ must order an additional evidentiary hearing. *Id.*, subd. 2(d) (Supp. 2009). Good cause is defined as "a reason that would have prevented a reasonable person acting with due diligence from participating at the evidentiary hearing." *Id.*

Here, pursuant to respondent Imperial Parking Inc.'s appeal, DEED conducted an evidentiary hearing over the telephone, but relator failed to participate. Following the hearing, the ULJ determined that relator was ineligible for unemployment benefits because he was discharged for employment misconduct. *See* Minn. Stat. § 268.095, subd. 4(1) (Supp. 2009). Relator submitted a request for reconsideration of the decision, explaining the basis for his request as follows: "the reason and fact of why I was discharged is not the fact that I know. In the other hand there were more than 9 employees discharged with me the same time and they're getting their unemployment benefits." But relator failed to assert that he did not receive notice of the evidentiary hearing in his request for reconsideration. Thus, this argument is not properly before this court. *See Haskins v. Choice Auto Rental, Inc.*, 558 N.W.2d 507, 512 (Minn. App. 1997) (declining to consider relator's argument on appeal that he failed to present to the ULJ).

Relator contends that he did assert this argument in his request for reconsideration. Specifically, relator claims that when he stated, “the reason and fact of why I was discharged is not the fact that I know,” he actually meant, “whatever was going on I was not notified of the hearing and thus I was not present during the decision.” This argument is not persuasive. The record supports the ULJ’s finding that “[relator] offers no explanation for his failure to participate in the hearing.”

Moreover, the record indicates that relator received notice of the evidentiary hearing. On July 16, 2009, DEED sent a notice of appeal to relator, informing him that Imperial was appealing the eligibility decision and that a telephone hearing was scheduled for July 30, 2009, at 9:30 a.m. This notice was sent to the same mailing address as the notice of decision and the notice of decision on relator’s request for reconsideration. The record shows that relator received both of these documents at that address. Because relator does not dispute the mailing address, we conclude that he received notice for purposes of his request for reconsideration. *See Johnson v. Metro. Medical Ctr.*, 395 N.W.2d 380, 382 (Minn. App. 1986) (reasoning that failure to dispute address and receiving other documents mailed to address show that relator received notice of decision for purposes of determining whether appeal was timely).

Opportunity to use interpreter

Relator argues that the ULJ erred by denying his request for reconsideration because relator did not have the opportunity to use an interpreter. We disagree.

Minn. R. 3310.2911 (2009) provides that DEED “must provide an interpreter, when necessary, upon the request of a party.” The rule requires the requesting party to notify the appeals office at least seven days before the date of the scheduled hearing. *Id.*

Here, the record indicates that relator failed to request an interpreter at any point before this appeal. Thus, we cannot conclude that the lack of an interpreter violated relator’s substantial rights. *See Ywswf v. Teleplan Wireless Services, Inc.*, 726 N.W.2d 525, 530 (Minn. App. 2007) (stating that the lack of an interpreter did not violate applicant’s substantial rights when she failed to request an interpreter, and there was no indication that she did not understand the proceedings or that the ULJ did not understand her).

We conclude that because relator failed to assert his lack-of-notice argument in his request for reconsideration, and because relator failed to request an interpreter at any time, the ULJ did not abuse his discretion by denying relator’s request for an additional hearing.

Affirmed.