

No. A06-706

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State of Minnesota  
**In Court of Appeals**

SRINIVASA R BUKKURI,

*Relator,*

and

DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT,

*Respondent.*

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**RESPONDENT-DEPARTMENT'S BRIEF AND APPENDIX**

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## **I. LEGAL ISSUES**

Under the law, an applicant's unemployment benefit account is established effective the Sunday of the calendar week that the application for benefits is filed and may be backdated one week at the applicant's request. Srinivasa R. Bukkuri filed for benefits on January 17, 2006. His account was backdated one week and was established effective January 8, 2006. Was his account date correctly determined?

## **II. STATEMENT OF THE CASE**

This case involves whether Relator Srinivasa R. Bukkuri is entitled to unemployment benefits for the weeks between the end of his employment in October 2005 and January 8, 2006 when his account was effective. Bukkuri established a benefit account with the Minnesota Department of Employment and Economic Development, but requested that it be backdated to the time he became unemployed. A department adjudicator issued a determination of ineligibility stating that he was not eligible for benefits prior to the time his account could be established by law, which was January 8, 2006. (D1)<sup>1</sup> Bukkuri appealed that determination asking that the account be effective in October 2005, when he became unemployed. After a de novo hearing, a department unemployment law judge affirmed the initial determination. (Appendix to Department's Brief, A3-A5)

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<sup>1</sup> Transcript references will be indicated as "T." Exhibits in the record will be "D" for the department, with the number following.

Bukkuri filed a request for reconsideration, and the ULJ affirmed the initial decision. (Appendix to Department's Brief, A1-A2)

This matter comes before the Minnesota Court of Appeals on a writ of certiorari obtained by Bukkuri under Minn. Stat. § 268.105, subd. 7(a) (2004) and Minn. R. Civ. App. P. 115.

### **III. STATEMENT OF FACTS**

Srinivasa Bukkuri worked as a software consultant until he resigned on October 5, 2005. (T.5)

On January 17, 2006, Bukkuri applied for unemployment benefits. (T.5)

### **IV. ARGUMENT**

#### **A. SUMMARY OF ARGUMENT**

Bukkuri applied for benefits on January 17, 2006, and his account was backdated to January 8, 2006, as the statute permits. The statute explicitly limits the backdating of accounts to one week. Bukkuri asks that his account be backdated four months so that he can collect more money, but the law simply does not allow that result.

#### **B. STANDARD OF REVIEW**

Effective for unemployment law judge decisions issued on and after June 25, 2005 that are directly reviewed by the Court of Appeals, the legislature restated the standard of review at Minn. Stat. § 268.105, subd. 7(d) (Supp. 2005) as follows:

(d) The Minnesota Court of Appeals may affirm the decision of the unemployment law judge or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because 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.

### **C. BENEFIT ACCOUNT DATES**

Minn. Stat. § 268.07, subd. 3b (2004), provides for the establishment of unemployment benefit accounts according to an explicit date provision:

#### **Subd. 3b. Limitations.**

(a) A benefit account shall be established effective the Sunday of the calendar week that the application for unemployment benefits was filed. Upon specific request of an applicant, an application for unemployment benefits may be backdated one calendar week prior to the Sunday of the week the application was actually filed. An application shall be backdated only if the applicant was unemployed throughout the period of the backdating. If an individual attempted to file an application for unemployment benefits, but was prevented from filing an application by the department, the benefit account shall be effective the Sunday of the calendar week the individual first attempted to file an application.

Minn. Stat. § 268.085, subd. 2 (supp. 2005) in turn provides in part:

An applicant shall not be eligible to receive unemployment benefits any week:

- (1) that occurs before the effective date of a benefit account; \* \* \*

Bukkuri does not deny that he did not apply for benefits until January 17, 2006.

He argues that he was unaware that he could collect benefits until that time, but he

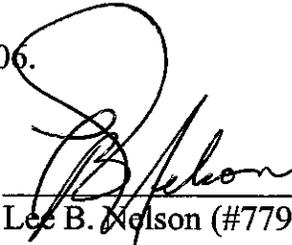
offers no explanation as to how either the department or this court can ignore the law in order to backdate his account further. While he may have experienced economic hardship as a result of his separation from employment, there is nothing in the law that would allow the department to backdate his account further as a result of his hardship.

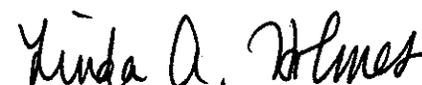
**V. CONCLUSION**

The unemployment law judge correctly concluded that Bukkuri's effective account date of January 8, 2006, had been correctly determined under the statute.

The department respectfully requests that the decision be affirmed.

Dated this 6<sup>th</sup> day of July, 2006.

  
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The appendix to this brief is not available for online viewing as specified in the *Minnesota Rules of Public Access to the Records of the Judicial Branch*, Rule 8, Subd. 2(e)(2) (with amendments effective July 1, 2007).