

**A09-219**



Minnesota Court of Appeals  
Informal Brief

James Meder  
Relator

And

Rapid Sports Center, Inc.  
Employer - Respondent

Department of Employment and Economic Development  
Respondent

Relator is a seasonal employee of Rapid Sports Center. He is a commission salesperson. He was laid off on Sept. 23, 2007. He applied for unemployment compensation benefits and his benefits were reduced for three time periods by the Unemployment Law Judge. The Judge reduced the benefits because of commissions paid to the Relator after he was laid off but were earned before he was laid off.

The evidence shows that as a boat salesperson, the Relator concludes a sale by having the customer sign a Sales Invoice. The Sales Invoice is then turned into the Respondent Rapid Sports Center financing department or leasing department. The Relator's work is concluded upon the signing of the Sales Invoice, he has nothing further to do, he has earned the commission. The Respondent Rapid Sports Center representative so testified. When the Relator is actually paid is up to the Respondent Rapid Sports Center. In this case, the three payments made to the Relator for which benefits were disallowed were for commissions earned before the lay-off.

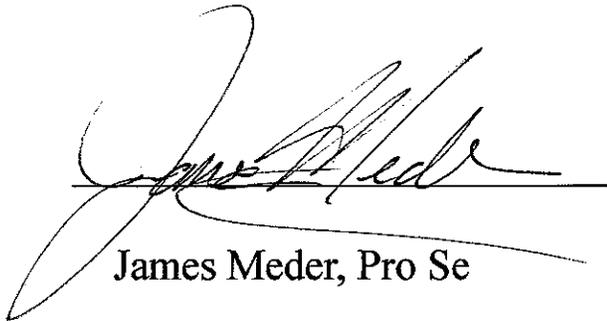
The Relator contends that the Judge did not apply the correct law to this fact situation. In fact, the Judge in her decisions did not even refer to the law, but completely ignored it. Minnesota law defines wages to include commissions, Minn. Stat. 268.035, subd 29. Minn. Stat. 268.035, subd 30a provides that any wages, i.e. commissions, earned but not paid with no scheduled date of payment is considered "wages paid" on the last day of employment.

There is no scheduled date of payment, since Relator does not know when he will be paid. Relator's last day of employment was September 23, 2007.

At the hearing, the representative of the Employer-Respondent stated that the figures listed on Exhibit B in the column labeled "Gross Amount Earned" were for commissions earned before the lay-off. See also, the notations from the Employer-Respondent on Exhibit A.

Relator is attaching as an Exhibit C, an e-mail response to a question he posed to the Department of Employment. The answer to the question from the Department was "If the commissions are for services performed prior to your benefit account then you do not have to report them. They will not have an effect on your unemployment benefits". This response is in conformity to the law which the Judge ignored and her decision is contrary to the policy of the Department of Employment.

Therefore, the Relator requests that the Minnesota Court of Appeals reverse the decision of the Unemployment Law Judge and allow to Relator his full unemployment benefits for the three week period that the compensation was reduced.



James Meder, Pro Se