

STATE OF MINNESOTA
IN THE COURT OF APPEALS

COURT OF APPEALS CASE # A10-0517
(TRIAL COURT CASE # 23846815-3)

PATRICK H. KELLY,
Relator

vs.

1) AMBASSADOR PRESS, INC. ,
Respondent

2) DEPARTMENT OF EMPLOYMENT
& ECONOMIC DEVELOPMENT
Respondent

PRO SE INFORMAL REPLY BRIEF OF RELATOR PATRICK H. KELLY

RELATOR:

Patrick H. Kelly


RESPONDENTS:

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A REPLY IN BRIEF – A Short Letter on Key Points

The Department of Employment and Economic Development, hereinafter called The Department, has followed the lead of the Employer in failing to scrutinize the hard evidence of the case. The Department has regurgitated the testimony of the Employer as though all the Company has said is fact and missed for a second time the opportunity to support justice. The Departments brief not only fails to address actions of an Employer who has provided misleading evidence to the court but totally ignores my claim as Relator that a new hearing is demanded when claims of Employer misconduct are suspected and probable. In addition, the Company did not provide the evidence it promised to give to the Court because its claims were false. I will not burden the Court by restating the lack of evidence, the false evidence and the exaggerations presented by the Company in their testimony as that is addressed in the Relator's Brief.

What is disconcerting in the Departments brief is that company statements are stretched even further by stating as fact Company testimony now portrayed as a statement I had made. Example: On page 5 of the Departments brief the brief it reads: *Kelly's explanation as to why the mistake happened was the he "messed up."* Of course, I did not attend the unemployment hearing but the author of the brief, who could not possibly know anything about my circumstances or the workplace and is duty bound to defend the decision of the ULJ, cleverly appears to quote an apparent admission of guilt. The incident where I "messed up" was in filing a grievance with my Union against the Employer and incurring the wrath of management. The filling resulted in my termination from Ambassador.

The Department claims that I should not have been able to request benefits without first viewing a screen on the website that stated "Important Messages – These Messages Need Your Attention." That statement is not included by ULJ in her decision nor is there any other reference or evidence in the case record to such a quotation. Apparently, The Department's feels that additional testimony is needed. The author of the Departments brief was not in attendance when I logged onto my account. I would suggest that if The Department had wanted to preserve the website record of such events they would have kept my account open for such review by the Court instead of denying me access to my unemployment account in June of this year. For weeks prior to briefs being filed I had no access to my account at DEED and the records contained therein. I would suggest that workers who appeal

decisions of the ULJ to the Court of Appeals should have their Unemployment Account accessible until the appeal has been resolved. Apparently only The Department enjoys that privilege.

On the critical issue of the notice discussed above I want to adamantly state that I did not see such a message when I logged onto my account. The Department makes it seem as if such a notice was flashing on the screen. I can tell you that was not the case. I also had no reason to look for trouble with my unemployment account and I had spent very little time on The Department's website. The Department goes on to point out my "lack of candor" in checking a box that stated I was available for work when I was in Toronto. I did what I had done in previous weeks to apply for benefits but there was no attempt to defraud unemployment. It was I who pointed out to the Department that I was in Toronto, the Department has no idea where I logged in from. I did not try to conceal any facts related to my activities. The Respondent's brief failed to mention that the Department's records show that the issue of my claiming benefits while in Toronto was "a resolved issue" as of the last time I was able to check my account in mid June. I should not be denied a hearing based on supposition and conjecture. The lack of candor rests exclusively with my former employer.

The Department brief states that my claim of having no knowledge of the hearing is "clearly false" even with no supporting evidence. If I had know of the scheduled hearing it would have taken only a phone call to reschedule the hearing for another date than New Year's Eve day. It is grossly illogical to assume that I would jeopardize my unemployment benefits during the most sever recession in modern history and go through the nightmare of this appeal process for the sake refusing to make a phone call unless I had no knowledge of the hearing. I submit to you that I have not demonstrated a lack of interest or indifference to this process or any other, I am not a liar and if given the chance I will prove the truth of my statements to the court. It is not a great inconvenience upon the court to grant me the one hour telephone hearing that I have requested to prove my case.

For all the forgoing reasons the March 4th, 2010 decision of the ULJ should be reversed.

Respectfully submitted,


Patrick H. Kelly

Dated: August 2nd, 2010