

No. A11-1013

State of Minnesota
In Court of Appeals

LYNN R. HASLEDALEN,

Relator,

vs.

DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT,

Respondent.

RESPONDENT-DEPARTMENT'S BRIEF AND APPENDIX

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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).

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Legal Issue

Under Minnesota law, an applicant who receives unemployment benefits to which he is not entitled under the law is considered overpaid and must return those benefits without exception. The law provides that an applicant who receives Social Security Insurance (“SSI”) old age benefits will have 50% of those benefits deducted from his unemployment benefits in any given week. When the Department learned in December 2010 that Lynn Hasledalen had been paid \$1,877 per month in SSI old age benefits starting effective April 1, 2010, he was determined partially ineligible for the unemployment benefits paid from April until December 2010, and determined overpaid. Was Hasledalen overpaid unemployment benefits and must he repay those benefits?

Unemployment Law Judge John Gunderson found that he was overpaid and required to repay the overpaid benefits.

Statement of the Case/Statement of Facts

For ease of understanding, the Statement of the Case and the Statement of Facts have been combined.

Hasledalen established a benefit account with the Minnesota Department of Employment and Economic Development effective December 13, 2009.¹ Hasledalen’s weekly unemployment benefit amount was \$585.

¹ E-8. Transcript references in the record will be indicated with “T.” Exhibits in the record will be “E” with the number following.

Hasledalen subsequently applied for Social Security benefits, upon turning 62 years old, and was awarded primary old age benefits under Title II of the Federal Social Security Act in the amount of \$1,877 per month, effective April 1, 2010.² A department clerk in December 2010 determined that Hasledalen's weekly unemployment benefits should be reduced, starting April 1, 2010, by \$216.58 per week as a result of his social security award.³ This resulted in Hasledalen being overpaid \$8,116.⁴ Hasledalen appealed the determination, and after a de novo hearing, a Department Unemployment Law Judge ("ULJ") affirmed the decision that Hasledalen's weekly unemployment benefits should be reduced by 50 percent of the weekly equivalent of his primary Social Security old age benefits, and that Hasledalen was overpaid unemployment benefits.⁵ Hasledalen filed a request for reconsideration with the ULJ, who affirmed.⁶

This matter now comes before the Minnesota Court of Appeals on a writ of certiorari obtained by Hasledalen under Minn. Stat. § 268.105, subd. 7 and Minn. R. Civ. App. P. 115. Because unemployment benefits are paid from state funds, the Department is the responding party to this case.⁷

² T.11; E-7.

³ E-2.

⁴ E-2.

⁵ Appendix to Department's Brief, A7-A10.

⁶ Appendix. A1-A6.

⁷ See Minn. Stat. § 268.069, subd. 2 and Minn. Stat. § 268.105, subd. 7(e).

Standard of Review

When reviewing an unemployment-benefits decision, the Court of Appeals may affirm the decision, remand for further proceeding, reverse, or modify the decision if Hasledalen's substantial rights were prejudiced because the decision of the ULJ violated the constitution, was based on an unlawful procedure, was affected by error of law, was unsupported by substantial evidence, or was arbitrary or capricious.⁸

The only issue in this case is the application of the statute to the undisputed facts. The Supreme Court in *State v. Thompson* stated that statutory application is a question of law that the courts review de novo.⁹

Argument

The applicable provision of law, Minn. Stat. § 268.085, subd. 4(a), provides in part:

*** 50 percent of the weekly equivalent of the primary Social Security old age benefit the applicant has received, has filed for, or intends to file for, with respect to that week must be deducted from an applicant's weekly unemployment benefit amount.

The statute is entirely clear. Hasledalen does not dispute that he applied for and was awarded primary Social Security old age benefits of \$1,877 per month while he was requesting unemployment benefits. He thus concedes every fact necessary to establish that 50 percent of his Social Security benefits are deductible

⁸ Minn. Stat. § 268.105, subd. 7(d)(1)-(6) (2010).

⁹ 754 N.W. 2d 352, 355 (Minn. 2008).

under the statute. Statutory terms are given their plain ordinary meaning unless specifically defined otherwise.¹⁰ A court may not set aside the plain meaning of the statute in order to insert its own concept of what it believes the law ought to be.¹¹ Moreover, the statute specifically states that “[t]here shall be no equitable or common law denial or allowance of unemployment benefits.”¹² The ULJ, therefore, correctly concluded that Hasledalen’s weekly unemployment benefits must be deducted by \$216.58.

Hasledalen questioned, during the hearing before the ULJ, why it took until December for the Department to issue a determination. That will be explained later, but under the law, the reason doesn’t matter. The statute provides that a determination of ineligibility (here issued on December 22, 2010) may be issued within 24 months of the establishment of a benefit account.¹³ The benefit account here was established in December 2009 and the determination issued in December 2010, and it was therefore properly issued under the law.

The statute specifically provides that when the Department issues a determination holding the applicant ineligible for benefits in periods in which the applicant has already been paid, he is considered to have been overpaid those unemployment benefits.¹⁴ Another provision of the statute provides that an

¹⁰ Minn. Stat. § 645.08 (2010).

¹¹ Minn. Stat. § 645.16.

¹² Minn. Stat. § 268.069, subd. 3 (2010)

¹³ Minn. Stat. § 268.101, subd. 2(e).

¹⁴ Minn. Stat. § 268.101, subd. 6.

applicant must repay overpaid unemployment benefits.¹⁵ There is no exception in the law to this requirement. Additionally, the statute makes clear that no compromises on overpaid unemployment benefits are allowed.¹⁶

Under the law it doesn't matter why or how an overpayment of unemployment benefits occurred. Because there is no equitable allowance of unemployment benefits, the overpaid benefits must be repaid.¹⁷

Relator's Contentions

Hasledalen contends he was told by both an individual in the Department's customer service center as well as an individual from the Social Security Administration that unemployment benefits would not be impacted by his applying for and being awarded social security old age benefits. The Department receives over one million telephone calls a year (and over 1.5 million in 2009). Certainly errors are made, and there is no way of knowing with certainty what Hasledalen was told. However, answers are given based upon the information provided. Hasledalen's comments on page 11 of the transcript, where he states that "in effect" and "technically" he was receiving social security benefits well before he applied for them because his pension took that into account, calls into question what exactly he said to the Department representative. Further, that a Social Security Administration employee would give advice on how

¹⁵ Minn. Stat. § 268.18, subd. 1.

¹⁶ Minn. Stat. § 268.18, subd. 6(a).

¹⁷ Minn. Stat. § 268.069, subd. 3.

unemployment benefits would be impacted gives this writer pause. The statute is not simple, and it is not typical for the Social Security Administration to give applicants advice on the practices of the Minnesota Unemployment Insurance statutory scheme.

But Hasledalen was asked by the ULJ on page 15 of the transcript about whether he disclosed, on the weekly continued requests filed, that he applied for and later received social security benefits.¹⁸ Hasledalen did not directly answer the ULJ's question, but does say when he "re-uped" (filed an application for unemployment benefits in December 2010, at the expiration of the benefit year on his December 2009 account) he disclosed applying for social security. However, this writer has reviewed each of the 52 weekly continued requests for Hasledalen made online from December 13, 2009, to December 11, 2010. On each he was asked, at question #2:

For this reporting period, did you or will you received or apply for income, from any other source, that you have not previously reported to us?

Please click [Here](#) for examples of other income sources.

Had Hasledalen clicked on "Here" it would have pointed out that social security benefits was one of those other sources of income. But on each of those 52 weekly continued requests for unemployment benefits, Hasledalen (or his wife,

¹⁸ See Minn. Stat. § 268.085, subd. 1(1) and Minn. Stat. § 268.0865 on the requirement for a continued request.

as he indicates she often did it for him¹⁹) answered “No.”²⁰ Therefore, Hasledalen never, while collecting unemployment benefits (including extensions) from December 2009 until December 2010, disclosed that he had applied for social security benefits. Nor did he disclose that he was awarded those benefits per the Social Security Administration notice to him dated April 30, 2010.²¹ Nor did he disclose, around May 6, 2010, that he had received \$1,877 in social security benefits.²² It was not until Hasledalen “re-uped” in December 2010 that the Department became aware of Hasledalen’s social security which started effective April 1, 2010. Had Hasledalen disclosed it as he should have, there would have been no overpayment.

Conclusion

Unemployment Law Judge John Gunderson correctly concluded that Hasledalen was overpaid unemployment benefits because he had received social security benefits and was required to repay those overpaid unemployment benefits. The Department requests that the Court affirm the decision of the Unemployment Law Judge.

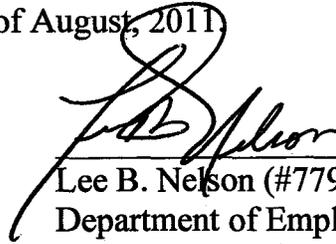
¹⁹ T. 15, 16.

²⁰ Appendix, A11-A72.

²¹ E-4.

²² E-4.

Dated this 29th day of August, 2011



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