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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1503**

Melissa Bilek,
Relator,

vs.

Staffing Partners, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed April 5, 2011
Affirmed
Connolly, Judge**

Department of Employment and Economic Development
File No. 24970053-3

Melissa Bilek, Chaska, Minnesota (pro se relator)

Staffing Partners, Inc., Minnetonka, Minnesota (respondent)

Lee B. Nelson, Amy R. Lawler, Minnesota Department of Employment and Economic
Development, St. Paul, Minnesota (for respondent department)

Considered and decided by Ross, Presiding Judge; Lansing, Judge; and Connolly,
Judge.

UNPUBLISHED OPINION

CONNOLLY, Judge

Relator appeals from a denial of unemployment benefits, arguing that she had good cause for failing to attend the evidentiary hearing. Because we conclude that the record substantially supports the unemployment-law judge's (ULJ) finding that relator did not have good cause for failing to participate in the evidentiary hearing, we affirm.

FACTS

Relator Melissa Bilek worked for respondent Staffing Partners, Inc. from February 8 to March 26, 2010. Relator was later determined to be ineligible for unemployment benefits by respondent Minnesota Department of Employment and Economic Development (DEED). The determination of ineligibility stated the decision would become final unless an appeal was filed by June 2, 2010. Relator appealed the determination, stating that she entered the year "2009" as her year worked when it should have been "2010." An evidentiary hearing was initially scheduled for June 4, but relator's employer requested that it be rescheduled. The hearing date was moved to June 9, and notification was sent to relator's address on May 21.

On June 9, the ULJ phoned relator at the scheduled hearing time. When relator did not answer, the ULJ left a voicemail indicating that, if relator did not call within 10-15 minutes, the ULJ would dismiss the appeal. Relator did not call the ULJ at any time on June 9. The ULJ subsequently dismissed relator's appeal. Relator was also notified that, unless she filed a request for reconsideration and established good cause for her

failure to participate in the hearing, relator would be considered to have failed to exhaust her administrative remedies.

Relator filed a request for reconsideration, explaining that she was very busy the week of the hearing due to her daughter's pending high-school graduation and "lost track of the day and times." The ULJ denied relator's request for a new hearing. The ULJ stated that being "very busy" was not a good reason for failing to attend the hearing and that relator had failed to act with due diligence. This certiorari appeal follows.

D E C I S I O N

When reviewing a denial of an additional evidentiary hearing, we will not reverse a ULJ's decision unless that decision constitutes an abuse of discretion. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 345 (Minn. App. 2006). If an applicant fails to participate in an evidentiary hearing, the ULJ must hold an additional evidentiary hearing if the applicant demonstrates good cause for failing to participate. Minn. Stat. § 268.105, 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.*

The ULJ determined that relator did not demonstrate good cause for failing to participate in the hearing. The ULJ concluded that the activity and stress surrounding the impending graduation of relator's daughter and the fact that relator lost track of time did not constitute good cause for failing to attend the hearing. We agree.

We have previously stated that schedule conflicts alone do not constitute good cause for failing to participate in the evidentiary hearing. *See, e.g., Petracek v. Univ. of*

Minn., 780 N.W.2d 927, 930 (Minn. App. 2010) (holding that being incarcerated, without giving the ULJ an explanation that would show why the circumstance of “being jailed was a reason that would have prevented a reasonable person acting with due diligence from participating at the evidentiary hearing,” is not good cause for failing to participate (quotation omitted)); *Skarhus*, 721 N.W.2d at 345 (holding that notifying the ULJ of a work conflict one day prior to the hearing was not good cause for failing to participate after DEED offered to reschedule and relator did not propose an alternative date). Here, relator made no attempt to reschedule the June 9 hearing for a time when she was less busy, and even concedes her reasons for missing the hearing are not good excuses.

Affirmed.