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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-1823**

Susan Cragg,
Relator,

vs.

Minneapolis Special School District #001,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed July 2, 2012
Affirmed
Wright, Judge**

Minnesota Department of Employment and Economic Development
File No. 28010846-3

Susan Cragg, Champlin, Minnesota (pro se relator)

Minneapolis Special School District #001, c/o Talx UCM Services, Inc., St. Louis,
Missouri (respondent)

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

Considered and decided by Wright, Presiding Judge; Ross, Judge; and Muehlberg,
Judge.*

* Retired judge of the district court, serving as judge of the Minnesota Court of Appeals
by appointment pursuant to Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

WRIGHT, Judge

Relator, a school district employee, challenges the determination by the unemployment law judge (ULJ) that relator is ineligible for unemployment benefits. Relator argues that, because her reduced employment is substantially less favorable than her employment for the prior academic year, her wage credits from employment with an educational institution may be used to qualify for unemployment benefits during the summer months. We affirm.

FACTS

From October 1986 through June 2011, relator Susan Cragg worked full-time, 52 weeks per year, for the Minneapolis Public Schools. In her 2011-2012 employment contract, Cragg's employer reduced her employment from 52 weeks to 45 weeks for budgetary reasons. As a result, Cragg was unemployed from July 1, 2011 through August 7, 2011, and she will be unemployed for the latter part of June 2012.

Cragg applied for unemployment benefits with the Department of Employment and Economic Development (department). A department adjudicator made an initial determination that Cragg is ineligible to receive unemployment benefits for the period between school years or terms. Cragg appealed the initial determination.

Following a hearing, the ULJ determined that Cragg is not entitled to unemployment benefits for the period between academic years. On reconsideration, the ULJ affirmed her initial findings of fact and decision, concluding that Cragg is not

entitled to unemployment benefits for the seven-week reduction in employment from the prior academic year. This certiorari appeal followed.

D E C I S I O N

When reviewing the decision of a ULJ, we may affirm the decision, remand the case for further proceedings, or reverse or modify the decision if the substantial rights of the relator 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.” Minn. Stat. § 268.105, subd. 7(d) (2010).

A ULJ’s factual findings are reviewed in the light most favorable to the decision. *Schmidgall v. FilmTec Corp.*, 644 N.W.2d 801, 804 (Minn. 2002). They will not be disturbed on appeal if there is evidence that substantially tends to sustain those findings. *Skarhus v. Davanni’s Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). Whether the ULJ’s findings establish that the applicant falls within a statutory exception to ineligibility presents a question of law, which we review de novo. *Johnson v. Walch & Walch, Inc.*, 696 N.W.2d 799, 800 (Minn. App. 2005), *review denied* (Minn. July 19, 2005).

Under Minnesota law, an applicant for unemployment benefits must establish a benefit account in accordance with Minn. Stat. § 268.07. Minn. Stat. § 268.069, subd. 1(1) (2010). To establish a benefit account, the applicant must, in relevant part, have earned a specified minimum dollar amount of “wage credits.” Minn.Stat. § 268.07, subd. 2(a) (Supp. 2011). “Wage credits” are “the amount of wages paid within an applicant’s

base period for covered employment.” Minn. Stat. § 268.035, subd. 27 (2010). Wage credits for school employees are governed by Minn. Stat. § 268.085, subd. 7(a) (2010), which provides:

No wage credits in any amount from any employment with any educational institution or institutions earned in any capacity may be used for unemployment benefit purposes for any week during the period between two successive academic years or terms if:

(1) the applicant had employment for any educational institution or institutions in the prior academic year or term; and

(2) there is a reasonable assurance that the applicant will have employment for any educational institution or institutions in the following academic year or term, *unless* that subsequent employment is substantially less favorable than the employment of the prior academic year or term.

(Emphasis added.) This provision addressing employment with educational institutions “applies to any vacation period or holiday recess if the applicant was employed immediately before the vacation period or holiday recess, and there is a reasonable assurance that the applicant will be employed immediately following the vacation period or holiday recess.” *Id.*, subd. 7(e) (2010).

At the time of the hearing, it was undisputed that Cragg was employed by an educational institution in the academic year prior to the 2011-2012 academic year and that, based on her employment contract, there was a reasonable assurance that she would have employment for an educational institution in the 2011-2012 academic year. Thus, our analysis focuses on whether Cragg falls within the statutory exception for school employees whose subsequent employment, namely, in the 2011-2012 academic year, “is

substantially less favorable than the employment of the prior academic year or term.”
See id., subd. 7(a)(2).

Cragg implicitly argues that the phrase “academic year or term” encompasses the twelve months from July through the subsequent June. The department maintains that the phrase “academic year or term” excludes any summer break. Neither the statutory scheme nor Minnesota caselaw defines the phrase “academic year or term” for the purpose of determining unemployment benefits. *Halvorson v. Cnty. of Anoka*, 780 N.W.2d 385, 390 (Minn. App. 2010). But when interpreting a statute, we construe words and phrases according to their plain and ordinary meanings. *Frank’s Nursery Sales, Inc. v. City of Roseville*, 295 N.W.2d 604, 608 (Minn. 1980); *see also* Minn. Stat. § 645.08(1) (2010) (providing that words are construed according to their common usage). To discern the plain and ordinary meaning of a word or phrase, we consider its common dictionary definition. *State v. Brown*, 792 N.W.2d 815, 822 (Minn. 2011). *Webster’s Third New International Dictionary* defines an “academic year” as “the annual period of sessions of an educational institution usually beginning in September and ending in June.” *Webster’s Third New International Dictionary* 9 (3d ed. 1961); *see also The New Shorter Oxford English Dictionary* 11 (1993 edition) (defining “academic year” as “a period of nearly a year reckoned from the time of the main student intake, usu[ally] from the beginning of the autumn term to the end of the summer term”); *Halvorson*, 780 N.W.2d at 390-91 (characterizing “academic year” as a fall and spring term).

Here, it is undisputed that, during the pertinent “academic year or term,” students do not attend classes at Cragg’s school during the summer months. *Cf. Halvorson*, 780

N.W.2d at 390-91 (analyzing Minn. Stat. § 268.085, subd. 7(a), in the context of a school within a juvenile detention center and concluding that “relator has not established that [his school’s] academic calendar is sufficiently unlike that found in a typical school setting”). We, therefore, conclude under the present circumstances that the plain and ordinary meaning of the phrase “academic year or term” does not encompass the period of summer vacation. *See id.* at 391.

When comparing Cragg’s employment of the “prior academic year or term” with the “following academic year or term,” the only change in Cragg’s employment is during the period of summer vacation. Accordingly, the ULJ correctly concluded that Cragg’s change in employment does not qualify her for the statutory exception for school employees whose “subsequent employment is substantially less favorable than the employment of the prior academic year or term.” *See* Minn. Stat. § 268.085, subd. 7(a)(2).¹ Because this statutory exception does not apply here, Cragg is not entitled to receive unemployment benefits.

Affirmed.

¹ Because we conclude that there is no change in Cragg’s employment during the statutorily relevant timeframes, we do not consider whether the ULJ erred as a matter of law in concluding that a seven-week reduction in employment, corresponding to \$8,668.80 in lost wages, does not constitute “substantially less favorable” employment.