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**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0822**

Dung Tran,
Relator,

vs.

Department of Employment and Economic Development,
Respondent.

**Filed January 13, 2014
Affirmed
Stoneburner, Judge**

Department of Employment and Economic Development
File No. 29109267-6

Dung Tran, Brooklyn Park, Minnesota (pro se relator)

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

Considered and decided by Hudson, Presiding Judge; Hooten, Judge; and Stoneburner, Judge.

UNPUBLISHED OPINION

STONEBURNER, Judge

In relator's original certiorari appeal from the decision of an unemployment-law judge (ULJ) that relator had been overpaid trade-readjustment allowances (TRA) and trade-adjustment assistance (TAA), this court remanded for "further proceedings to address the factual and legal bases, if any, for the conclusion that [relator's] online

certification studies are ineligible for benefits under the Trade Act of 1974.” *Tran v. DEED*, No. A12-1000 (Minn. App. Feb. 12, 2013) (order op.). Relator now appeals from the ULJ’s subsequent decision holding that relator’s online studies did not make him eligible for the benefits he received. Relator argues that the ULJ erred in concluding that these studies did not trigger eligibility and that he was overpaid benefits to which he was not entitled. Because the ULJ’s decision is supported by the findings of fact and legal authority, we affirm.

D E C I S I O N

The relevant underlying facts are set out in this court’s order opinion dated February 12, 2013. *Id.* The only issue in this appeal is whether the ULJ has provided a sufficient factual and legal basis to support the ULJ’s conclusion that self-directed studies pursued by relator Dung Tran did not make him eligible for benefits under the Trade Act of 1974. 19 U.S.C. § 2291 (2011). We conclude that the ULJ has provided the necessary support for its determination.

Tran enrolled in coursework at Minneapolis Community and Technical College (MCTC) in the electroneurodiagnostic-technology program, to qualify himself for employment as an electroencephalogram (EEG) technician. DEED approved this program as qualifying Tran for TRA and TAA benefits. Based on Tran’s representation that he would be enrolled in the program until December 2011, approval was granted through December 20, 2011. The approval form stated that training must be at a state-approved school, named MCTC, and noted that Tran would be traveling 15 miles round-trip for school.

Tran completed the MCTC program in May 2011 and received an Associate of Applied Science degree. Before he completed his MCTC coursework, Tran took an electroneurodiagnostic-register examination, which was not required by MCTC and not required to obtain work as an EEG technician, but which Tran thought would increase his chances of finding a job and expand opportunities once he obtained a job. Tran did not pass the examination.

After Tran obtained his degree, he sought employment but also designed a course of self-study to prepare him to retake the exam. These studies involved consulting books and textbooks, using some websites, and visiting a tutor twice. Tran continued to submit weekly requests for TRA and TAA benefits, reporting to DEED weekly that he was a full-time student attending approved training five days a week. But Tran never sought or obtained DEED approval for his self-designed studies, which were not associated with any MCTC program.

Tran did not retake the exam before he found employment as an EEG technician. After he became employed, DEED issued a determination that Tran was not eligible for TRA/TAA benefits beyond the date initially approved for such benefits. Tran appealed and, after a hearing, the ULJ determined, and affirmed on reconsideration, that Tran was not eligible for any benefits he had received after he graduated from MCTC because he was not participating in full-time, approved training after that date. Tran appealed the determination and this court remanded for further proceedings to establish the factual and legal basis for the ULJ's conclusion that Tran's self-directed studies did not qualify him for continued benefits. *Tran*, No. A12-1000 (order op.).

To be eligible for TRA/TAA benefits, a worker must be enrolled in an approved training program. 19 U.S.C. §2291(a)(5)(A)(i). In its findings of fact and decision on remand, the ULJ set out the six requirements under 19 U.S.C. § 2296(a)(1) (2011), all of which must be satisfied in order for an applicant's activities to be considered approved training: (1) no suitable employment available; (2) the applicant will benefit from appropriate training;¹ (3) there is a reasonable expectation of employment on completion of training; (4) approved training is reasonably available; (5) the applicant is qualified to undertake and complete the training; and (6) the training is suitable and available at reasonable cost. Because suitable employment was available for Tran when he completed the MCTC program and passing the board examination was not required to obtain such employment, the ULJ concluded that Tran's self-directed studies did not meet the first two elements, making Tran ineligible for the benefits he received after completing the MCTC program.

The ULJ's findings are supported by substantial evidence in the record, and the findings support the ULJ's conclusions for which the ULJ has, on remand, provided legal authority that Tran's self-directed studies for the board exam did not qualify as approved training. Accordingly, Tran was not entitled to TRA/TAA benefits after graduating from MCTC.

Affirmed.

¹ A worker benefits from training when "there is a direct relationship between the *needs* of the worker for . . . training . . . and what would be provided by the training program under consideration." 20 C.F.R. § 617.22(a)(2)(i) (2013) (emphasis added).