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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A16-1842**

Christine Jacobson,
Relator,

vs.

Department of Employment & Economic Development,
Respondent.

**Filed July 17, 2017
Affirmed
Toussaint, Judge***

Department of Employment and Economic Development
File No. 34896821-3

Christine Jacobson, Evansville, Minnesota (pro se relator)

Lee B. Nelson, Keri Phillips, Department of Employment and Economic Development, St. Paul, Minnesota (for respondent department)

Considered and decided by Johnson, Presiding Judge; Larkin, Judge; and Toussaint, Judge.

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

UNPUBLISHED OPINION

TOUSSAINT, Judge

On certiorari appeal from a decision by the unemployment law judge (ULJ), affirming respondent Minnesota Department of Employment and Economic Development's (department) assessment of an administrative penalty under Minn. Stat. § 268.182, subd. 2(a) (2016), for making a false statement in order to obtain unemployment benefits, relator Christine Jacobson argues that the decision is unsupported by substantial evidence. Because substantial evidence supports the ULJ's decision, we affirm.

DECISION

This court may reverse the decision of a ULJ "if the substantial rights of the petitioner may have been prejudiced because the findings, inferences, conclusion, or decision are . . . unsupported by substantial evidence in view of the entire record as submitted." Minn. Stat. § 268.105, subd. 7(d) (2016). The ULJ's factual findings are reviewed in the light most favorable to the decision, and we defer to the ULJ's credibility determinations. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006).

Minn. Stat. § 268.182, subd. 2(a), provides:

Any applicant who knowingly makes a false statement or representation, who knowingly fails to disclose a material fact, or who makes a false statement or representation without a good faith belief as to the correctness of the statement or representation, in order to obtain or in an attempt to obtain unemployment benefits may be assessed . . . an administrative penalty of being ineligible for unemployment benefits for 13 to 104 weeks.

Whether an applicant knowingly made false statements under this subdivision is a question of fact. *See Cash v. Comm’r of Econ. Sec.*, 352 N.W.2d 535, 537 (Minn. App. 1984) (stating that this court may not substitute its judgment for the commissioner’s under predecessor statute).

Following a de novo hearing on August 10, 2016, the ULJ determined that relator was ineligible for unemployment benefits for the week beginning July 3, 2016, because she was not available for suitable employment benefits for that week. Shortly thereafter, the department imposed an administrative penalty under Minn. Stat. § 268.182, subd. 2(a), consisting of a 13-week period of ineligibility for making a false statement in order to obtain unemployment benefits. Specifically, the department concluded that after the July 13, 2016 initial determination that relator was ineligible for unemployment benefits for the week beginning July 3, 2016, due to her absence from her labor market area for personal reasons, relator “changed her mailing address on file with the department from an address in Minnetonka, Minnesota to an address in Evansville, Minnesota.” The department also determined that relator “lied” under oath at the August 10 hearing “in an attempt to obtain unemployment benefits” by stating that “she was not out of town in the week beginning July 3, 2016, as she had moved to Evansville (sic), Minnesota in late June 2016.” Relator appealed the imposition of the administrative penalty, and following a hearing on September 12, 2016, the ULJ affirmed the determination that relator “knowingly made false statements in an attempt to receive unemployment benefits.” Thus, the ULJ concluded that the “imposition of administrative penalties was correct.”

Relator challenges the ULJ's decision affirming the imposition of an administrative penalty under section 268.182, subdivision 2(a), arguing that the decision is unsupported by substantial evidence. She asserts that after being laid off from her place of employment, she moved to Evansville on June 26, 2016, where she was available and looking for work. Relator also appears to assert that she used her Minnetonka address when she established her unemployment account because she had not changed her address to Evansville with the United States Postal Service. According to relator, when she changed her address with the postal service to Evansville, she also changed her mailing address on file with the department. Thus, relator contends that the ULJ erroneously concluded that she provided false statements at the hearings in order to obtain unemployment benefits.

We disagree. The record reflects that at the September 12 hearing, relator testified that she first moved to Evansville the "last week of June," but she listed Minnetonka as her address because she "wasn't looking over the information online right." Relator testified that she "made a mistake" and that she corrected her mistake on July 18, 2016, when she "started changing all [her] addresses in the cities the first two weeks in July, permanently." But the ULJ specifically found relator's testimony to be not credible, and it is well settled that we defer to the ULJ's credibility determinations. *Skarhus*, 721 N.W.2d at 344.

The record reflects that when relator established her unemployment benefits account with the department, she listed a Minnetonka address. The record also reflects that in requesting benefits for the week beginning July 3, 2016, relator stated that she was unavailable for work that week because she was in Evansville "helping family." Moreover, the record reflects that after the department issued the initial determination of ineligibility,

but before the August 10 de novo review hearing on the matter was held, relator changed her address in the unemployment insurance system to reflect an Evansville address. Relator then testified at the August 10 hearing that she was in the process of moving to Evansville immediately after she was laid off, but that her answers to the questions in the department's online system were the result of her confusion "with all the pop up questions" in the online system.

The administrative penalty was based on the department's determination that relator lied at the August 10 hearing in order to attempt to obtain unemployment benefits. And after the hearing on September 12, following relator's appeal of the administrative penalty, the ULJ affirmed the imposition of the administrative penalty based on relator's testimony that was consistent with her August 10 testimony. The evidence presented at the hearings, along with the ULJ's credibility determination that relator provided false testimony at the August 10 and September 12 hearings, is sufficient to support a determination that relator provided false statements or representations in order to obtain or attempt to obtain unemployment benefits. Therefore, the ULJ did not err by affirming the imposition of the 13-week administrative penalty under Minn. Stat. § 268.182, subd. 2(a).

Affirmed.