STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1474

Richard Inyang,
Relator,

vs.

Wal-Mart Associates, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

Filed April 9, 2018
Affirmed
Connolly, Judge

Department of Employment and Economic Development
File No. 35499097-3

Richard B. Inyang. St. Paul, Minnesota (pro se relator)

Wal-Mart Associates, Inc., c/o Talx UCM Service, Inc., St. Louis, Missouri (respondent)

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

Considered and decided by Connolly, Presiding Judge; Halbrooks, Judge; and Reilly, Judge.

U N P U B L I S H E D   O P I N I O N

CONNOLLY, Judge

Relator simultaneously received unemployment benefits and income from an employer during three weeks in 2016. An unemployment-law judge (ULJ) determined that relator was overpaid benefits for those three weeks because relator committed fraud. Relator challenges the determination of the ULJ that he committed fraud. We affirm.

FACTS

Respondent Wal-Mart Associates, Inc. (Walmart) employed relator Richard Inyang for nearly ten years before discharging him on April 22, 2016. Relator applied for unemployment benefits and established an account with respondent Minnesota Department of Employment and Economic Development (DEED). He was determined to have a weekly benefit amount of $367. Relator grieved his discharge, and Walmart agreed to reinstate him.

Walmart directed relator to work at a St. Paul store while it determined which manager position to reinstate him. Relator worked 8 hours on July 1, 2016. One week later, on July 8, 2016, relator worked 6.82 hours at the St. Paul store. On July 14, 2016, relator was paid for working on July 1 and July 8. For June 26-July 2, relator had gross earnings of $138.72. For July 3-9, relator had gross earnings of $118.26. Relator worked Monday through Friday during the week of July 10-16. On July 28, relator was paid $862.74 for week three.

Relator filed continued requests for unemployment benefits on July 5, July 11, and July 18. When filing each of these requests, relator was asked, “Did you work or have a paid holiday during the reporting period listed above?" Each time, relator answered, "No." If relator had answered "Yes," he would have been asked about the hours he had worked and his gross earnings. If relator had correctly reported the hours he had worked and his gross earnings, he would have had $69 deducted from his unemployment benefits for week one and $59 deducted from his unemployment benefits for week two and he would not have been entitled to any unemployment benefits for week three.

DEED later found that relator's earnings were not taken into account for those three weeks of unemployment benefits, causing relator to be overpaid $495. DEED also determined that relator was overpaid due to fraud and imposed the statutory penalty of 40% of the amount overpaid. The ULJ conducted a de novo hearing and affirmed DEED's determinations. Relator filed a request for reconsideration, and the ULJ affirmed those decisions.

Relator appeals.

D E C I S I O N

Relator challenges the ULJ's finding that he fraudulently obtained unemployment benefits, arguing that, since his employment with Walmart was not "fully finalized" until August 2, 2016, he did not commit fraud when he responded "no" on the three unemployment-benefits requests. This court may modify or reverse an unemployment-benefits decision only if relator's substantial rights were prejudiced because the ULJ findings, inferences, conclusion, or decision violates the constitution, exceeds statutory or jurisdictional authority, is based on unlawful procedure, lacks the support of substantial evidence, is arbitrary, or is capricious. Minn. Stat. § 268.105, subd. 7(d)(1)-(6) (2016).

Whether an applicant made knowing misrepresentations while requesting benefits is a question of fact that depends on the credibility of the applicant's testimony. *Burnevik v. Dep't of Econ. Sec.*, 367 N.W.2d 681, 683 (Minn. App. 1985). We review the ULJ's factual findings "in the light most favorable to the decision and will not disturb those findings as long as there is evidence in the record that reasonably tends to sustain them." *Wilson v. Mortg. Res. Ctr., Inc.*, 888 N.W.2d 452, 460 (Minn. 2016) (quotations omitted). Moreover, credibility determinations are the ULJ's exclusive province, and we will not disturb them on appeal. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 345 (Minn. App. 2006).

"A continued request for unemployment benefits is a certification by an applicant . . . that the applicant is unemployed and meets the ongoing eligibility requirements for unemployment benefits . . . ." Minn. Stat. § 268.0865, subd. 1 (2016). "If the applicant has earnings . . . with respect to any week . . . equal to or in excess of the applicant's weekly unemployment benefit amount, the applicant is ineligible for unemployment benefits for that week." Minn. Stat. § 268.085, subd. 5(a) (2016). "If the applicant has earnings . . . , with respect to any week, that is less than the applicant's weekly unemployment benefit amount . . . 50 percent of the earnings are deducted from the weekly unemployment benefit amount." *Id.*, subd. 5(b) (2016). Applicants who are overpaid benefits must generally repay the excess amount. Minn. Stat. § 268.18, subd. 1(a) (2016). But when an applicant receives overpayment through fraud,[1] "the commissioner must issue a determination of overpayment penalty assessing a penalty equal to 40 percent of the amount overpaid." *Id.*, subd. 2(a) (2016). An applicant commits fraud if he "is overpaid unemployment benefits by making a false statement or representation without a good faith belief as to the correctness of the statement or representation." *Id.*

Here, there is no doubt that relator was overpaid unemployment benefits during each of the relevant three weeks. During his telephone hearing with the ULJ, relator verified the authenticity of the Walmart payroll records and his unemployment records. These documents prove that, for these three weeks, relator worked for pay and simultaneously received full unemployment benefits. The issue is whether relator had a good-faith belief as to the correctness of his representations on the requests for unemployment benefits. Relator testified and now argues that he requested unemployment benefits because he considered himself "not employed" because he had yet to be paid and was still going through the reinstatement process. Relator supports his argument with the fact that as of August 2, 2016, Walmart had "still not fully finalized my reinstatement process or back to work process." The ULJ found that relator's testimony was "not credible" and that Walmart's payroll records were more persuasive.

"We have frequently noted this court will not question a determination of credibility made by the [ULJ]." *Burnevik*, 367 N.W.2d at 683. Relator does not cite any authority or

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[1] In 2017, the legislature amended Minn. Stat. § 268.18 by changing "fraud" to "misrepresentation." At the time of relator's continuing-benefits applications, the statutory language was "fraud."

fact that would give this court reason to second-guess the ULJ's determination that his testimony was not credible and that the payroll records kept in the ordinary course of Walmart's business were accurate. We defer to the ULJ's credibility determinations and therefore conclude that substantial evidence supports the ULJ's decision that relator was overpaid unemployment benefits by making false statements without a good-faith belief as to the correctness of the statements. Therefore, the ULJ did not err by determining that relator committed fraud.

Affirmed.