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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1972
A19-0384**

In the Matter of: Sujata Sangwan.

**Filed November 12, 2019
Affirmed
Peterson, Judge***

Department of Employment and Economic Development
File No. 35919814-6

Sujata Sangwan, North St. Paul, Minnesota (pro se relator)

Anne Froelich, Minnesota Department of Employment and Economic Development, St. Paul, Minnesota (for respondent department)

Considered and decided by Reyes, Presiding Judge; Smith, Tracy M., Judge; and Peterson, Judge.

UNPUBLISHED OPINION

PETERSON, Judge

In these consolidated appeals, relator Sujata Sangwan challenges the unemployment law judge (ULJ) decisions that she (1) could not backdate the effective date of her 2017 unemployment-benefits account by eleven weeks; and (2) did not have good cause for

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

failing to make weekly benefit requests in 2018. Sangwan argues that she delayed applying and making weekly requests because representatives of respondent Department of Employment and Economic Development (DEED) misinformed her. We affirm.

FACTS

During the 2016-17 school year, Sangwan worked as a teacher for the Anoka-Hennepin School District. In March 2017, the school district sent Sangwan a letter informing her that her employment contract would be terminated at the end of the academic year. On May 8, 2017, one month before the termination, Sangwan visited the lobby of DEED's offices seeking information about unemployment benefits during her impending unemployment. Sangwan claims that she showed her employer's letter to a DEED representative who advised her to wait until after the start of the next school year to apply for an unemployment-benefits account. Sangwan contends that she again visited the DEED lobby on August 22, and a different DEED representative advised her to "wait a little longer" before filing.

Sangwan spent the summer of 2017 looking for a job. When she did not find one, she applied for unemployment benefits on September 8. Her application was granted, and her account was backdated one week, which is generally permitted under Minnesota Statutes, section 268.07, subd. 3b(a) (2018). On September 28, 2017, Sangwan visited the DEED lobby again, this time seeking to backdate her account to June 11, 2017, and to request benefits for the weeks between June 11 and her original account date. Sangwan claimed that she learned during her September 8 visit to DEED that the information she received earlier (to delay filing) was erroneous and that she would have been eligible for

an account on June 11. She argued that the erroneous information that the DEED representatives gave her prevented her from applying for benefits and that she should therefore be allowed to backdate her account to when she was first eligible.

DEED determined that Sangwan was ineligible for the June 11 backdate, and Sangwan challenged the determination. Following a hearing, a ULJ found that DEED did not prevent Sangwan from applying for an account and affirmed DEED's determination. Sangwan appealed the ULJ's decision to this court, which reversed and remanded with instructions to the ULJ to make additional findings. *Sangwan v. Dep't of Emp't & Econ. Dev.*, A18-0171, 2018 WL 4201216 (Minn. App. 2018). In the fall of 2018, after a hearing before a ULJ on remand, the ULJ found Sangwan ineligible for the backdate she requested. Sangwan appealed the ULJ's decision to this court.

Shortly before the ULJ issued the decision on remand, Sangwan visited the DEED lobby again to request benefits for the period between June and August of 2018. Sangwan had not renewed her account, applied for a new account, nor made any request for benefits since September 2017, but she argued that this was only because of the misinformation she received in 2017. DEED found Sangwan ineligible for benefits for the summer of 2018. A ULJ affirmed that decision, Sangwan appealed to this court, and this court consolidated Sangwan's two appeals.

DECISION

When reviewing a ULJ's decision, we view factual findings "in a light most favorable to the decision," and we will not disturb the findings "so long as there is evidence in the record that substantially supports them." *Gonzalez Diaz v. Three Rivers Cmty.*

Action, Inc., 917 N.W.2d 813, 815-16 (Minn. App. 2018). We defer to the ULJ’s credibility determinations, but we review de novo the ULJ’s interpretation of the unemployment statutes and the ultimate question of an applicant’s eligibility for benefits. *Id.* at 816; *Neumann v. Dep’t of Emp’t & Econ. Dev.*, 844 N.W.2d 736, 738 (Minn. App. 2014).

I.

In the first case before us, Sangwan challenges the ULJ’s determination that she is not eligible to backdate her 2017 unemployment-benefits account to June 11. Sangwan argues that she would have applied in June when she was first eligible if she had not received erroneous information from DEED representatives on May 8 and August 22, 2017,¹ and that this misinformation amounted to the department preventing her from filing an application.

Generally, under the unemployment-compensation statute, “[a]n application for unemployment benefits is effective the Sunday of the calendar week that the application was filed.” Minn. Stat. § 268.07, subd. 3b(a). The statute, however, also provides that “[i]f an individual attempted to file an application for unemployment benefits, but was prevented from filing an application by the department, the application is effective the Sunday of the calendar week the individual first attempted to file an application.” *Id.*

In the opinion issued in Sangwan’s previous appeal, this court stated that “if Sangwan attempted to apply for unemployment benefits, but was prevented from doing so

¹ During the ULJ hearing in the second case, Sangwan alleged that she also received misinformation on October 5, 2017. While this would have occurred within the timeline of events for the first case, Sangwan did not make the allegation in the first case, and the ULJ did not consider it.

by virtue of being given misinformation by DEED, then the prevented-from-filing exception must apply as a matter of law.” *Sangwan*, 2018 WL 4201216 at *3 (citing *Morales v. Dep’t of Emp’t & Econ. Dev.*, 713 N.W.2d 882, 884 (Minn. App. 2006)). This court then reversed and remanded because the record and the ULJ’s findings were insufficient to determine whether the exception applies. This court instructed the ULJ to (1) make a finding of fact as to whether Sangwan received misinformation from DEED; (2) determine whether there were written materials in the record that correctly advised Sangwan; and (3) more thoroughly explain the reasoning behind any credibility determinations. *Id.*

In the ULJ’s decision following this court’s remand, the ULJ found that DEED “did not advise Sangwan to wait or delay applying for unemployment benefits” on May 8, and that Sangwan “did not make an in-person visit to the Department on August 22, 2017.” The ULJ then concluded that “[t]he Department did not prevent Sangwan from filing an account for unemployment benefits before September 8, 2017.”

The ULJ’s findings are based on documentary evidence and testimony from Sangwan and Beth Bailey, a DEED program manager. With respect to the finding that DEED did not advise Sangwan to wait or delay applying for unemployment benefits on May 8, the ULJ cited the following evidence: (1) Sangwan did not take any notes on her visits to DEED and could not recall whether “she met with a man or woman”; (2) the DEED representatives’ electronic log note regarding the May 8 lobby visit read only “Lobby visit: discussed account status and issues.”; and (3) Bailey’s testimony that DEED representatives are trained to encourage applicants to apply, even when in doubt about

eligibility, and it was not likely that the DEED employee of nine years with whom Sangwan met advised her to delay. With respect to the finding that Sangwan did not visit the DEED lobby on August 22, and thus was not misinformed on that day, the ULJ relied on (1) the fact that there is no electronic log note for that day; and (2) Bailey's testimony that it is highly unlikely that the employee with whom Sangwan thinks she spoke would advise her to delay filing.

The documentary evidence does not support Sangwan's version of events, but it also does not conclusively show that DEED did not misinform Sangwan. The log note for Sangwan's May 8 visit does not identify the issues that were discussed nor in any way indicate that Sangwan was not told that she should wait to apply, and the absence of a log note for August 22 does not prove that Sangwan did not visit the DEED lobby that day. The ULJ's findings, therefore, are ultimately based on the testimonial evidence, and whether the findings are supported by substantial evidence depends on the ULJ's credibility determinations.

"When the credibility of an involved party or witness testifying in an evidentiary hearing has a significant effect on the outcome of a decision, the [ULJ] must set out the reason for crediting or discrediting that testimony." *Eley v. Southshore Invs., Inc.*, 845 N.W.2d 216, 221 (Minn. App. 2014) (quoting Minn. Stat. § 268.105, subd. 1a(a) (2014)). The ULJ set out the following reasons for crediting Bailey's testimony and discrediting Sangwan's testimony regarding the May 8 visit:

Sangwan took no notes during her visits to the Department, and could not remember who she met with on May 8, 2017, or if she met with a man or woman. . . . Bailey was credible because

of her experience as a customer service representative and as someone who has trained customer service representatives.

With respect to August 22, 2017, the ULJ set out the following reasons:

There is no document to support that Sangwan received advice by the Department to delay filing for benefits, and Sangwan took no notes during her Department visits. The experienced Department employees who assisted Sangwan in person, on the other hand, created notes on the Department's electronic record keeping system, and those notes do not show any such advice given to Sangwan. It is not likely that on two different occasions (more than three months apart) two separate and experienced Department employees both advised Sangwan to delay filing her application for unemployment benefits, which would be against their training.

The documentary evidence is consistent with Bailey's testimony, and these reasons sufficiently explain the ULJ's credibility determinations.

The ULJ made the necessary factual findings, admitted necessary documents to the record, and provided the rationale for credibility determinations. In short, the ULJ corrected the deficiencies for which this court remanded this case. Because the ULJ set out sufficient reasons for crediting Bailey's testimony, we defer to the ULJ's credibility determination. And because Bailey's credible testimony is substantial evidence that supports the ULJ's conclusion that DEED did not prevent Sangwan from applying for an account for unemployment benefits before September 8, 2017, we affirm. *Neumann*, 844 N.W.2d at 738.

II.

In the second case before us, Sangwan claims that she is entitled to benefits for the summer months of 2018. She did not have an active benefits account during those months

and had not filed weekly requests for benefits since September of 2017, but she asserts that she failed to file weekly benefit requests because she relied on the erroneous advice from DEED that, as a teacher, she should not seek benefits during the summer. Sangwan argues that this misinformation constitutes good cause for failing to apply and file weekly benefit requests.

To receive unemployment benefits, an applicant must file continued requests for benefits each week. Minn. Stat. § 268.0865, subd. 1 (2018). The requests “must be filed within four calendar weeks following the week for which payment is requested.” *Id.*, subd. 3 (2018) (electronic filing); *id.*, subd. 4 (2018) (filing by mail). A request made more than four calendar weeks after the week for which benefits are requested will not be accepted, unless the applicant can show good cause for failing to file within that period. *Id.*, subd. 3 (electronic filing); *id.*, subd. 4 (filing by mail). “Good cause” is defined as “a reason that would have prevented a reasonable person acting with due diligence from filing a continued request for unemployment benefits within the time periods required.” *Id.*, subd. 5 (2018). The ULJ found that Sangwan did not show good cause for failing to file for benefits.

Whether an applicant has demonstrated good cause is a legal conclusion that incorporates factual findings, which must have adequate evidentiary support in the record. *Zepp v. Arthur Treacher Fish & Chips, Inc.*, 272 N.W.2d 262, 263 (Minn. 1978) (evaluating whether employee’s quitting was with good cause as a question of law, which must have reasonable support in the findings, and the findings must have the requisite evidentiary support). Therefore, we review the question of good cause de novo, but we

rely on the ULJ's factual findings to the extent that they are supported by substantial evidence in the record.

As in the prior case, the ULJ determined that Sangwan's claimed receipt of misinformation "is not believable testimony," because the misinformation is contrary to DEED policy and thus unlikely to come from experienced DEED employees. The ULJ also reasoned that the alleged misinformation would have been provided months before Sangwan knew whether she would be employed in the summer of 2018, and a reasonable person would seek information at the time of the layoff, rather than rely on information received months earlier in a different matter. The ULJ adequately explained the rationale for the determination that Sangwan's testimony that she received misinformation was not credible, and the determination that Sangwan's testimony was not credible demonstrates that Sangwan did not have good cause for failing to file continued requests for benefits during the summer of 2018.²

Affirmed.

² We also note that the ULJ's November 7, 2017 decision expressly informed Sangwan that she was eligible to receive benefits at the beginning of the summer in 2017 and should have applied then. Also, in her petition for certiorari in her first appeal to this court, Sangwan alleged that DEED staff gave her erroneous information, which implies that she had come to understand in 2017 that she was eligible to receive benefits as soon as she became unemployed. Consequently, even if DEED had misinformed Sangwan in the summer of 2017, she cannot reasonably claim that she was still under the impression that she was ineligible for benefits during the summer of 2018. A reasonable person in Sangwan's position would not rely on information that she had alleged to be erroneous.