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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0447**

Soua Vang,
Relator,

vs.

Medtronic Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed November 2, 2020
Affirmed
Frisch, Judge**

Department of Employment and Economic Development
File No. 37744046-2

Soua Vang, Andover, Minnesota (pro se relator)

Medtronic Inc., c/o Corporate Cost Control Inc., Londonderry, New Hampshire
(respondent employer)

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

Considered and decided by Hooten, Presiding Judge; Smith, Tracy M., Judge; and
Frisch, Judge.

UNPUBLISHED OPINION

FRISCH, Judge

Relator challenges an unemployment law judge's decision on reconsideration concluding that relator was ineligible to establish a new benefit account after he elected to reactivate and receive payments on a pre-existing account. Because the statute rendering relator ineligible for benefits contains no exceptions for mistakes, we affirm.

FACTS

The facts of this case are undisputed and unfortunate. Relator Soua Vang worked for Medtronic Inc. for 22 years. On August 10, 2018, his employment ended, and he received approximately one year of severance pay. In October 2018, Vang applied for unemployment benefits, and the Minnesota Department of Employment and Economic Development (DEED) mailed Vang a determination of benefit account. DEED informed Vang that potential benefits of \$13,234 were available to him and that the benefits were "only available during [Vang's] Benefit Year." DEED further informed Vang that his benefit year began on November 11, 2018, and ended on November 9, 2019.

On December 7, 2018, DEED mailed Vang a determination of ineligibility, informing him that his severance pay delayed his eligibility for benefits through August 23, 2019. *See* Minn. Stat. § 268.085, subd. 3b (Supp. 2019) ("An applicant is not eligible to receive unemployment benefits for any week the applicant is receiving, has received, or will receive . . . severance pay . . .").

On October 14, 2019, Vang reapplied for benefits using the online portal. The digital application provided, "You may be eligible to withdraw the account you had filed

previously, and file a new one.” The application also offered the option to calculate benefit amounts on a new account to enable Vang to “decide if [he] want[ed] to reactivate [his] existing account or file a new one.” The application contained the following prompt: “Do You Want to Withdraw Your Existing Account and File [a] New Account?” The application included two options: (1) “Yes, withdraw my existing account and file a new account”; and (2) “No, reactivate my existing account[.]” Vang chose the second option and reactivated his original account. He received only three weeks of benefit payments before his benefit year on the original account ended on November 9, 2019.

Vang applied for a new benefit account shortly thereafter. On November 19, 2019, DEED mailed Vang a determination of benefit account for a benefit year beginning on November 10, 2019, informing Vang that he did not qualify for a new account because he had not earned \$3,000 or more in wages since opening his previous account.

Vang appealed, and an unemployment law judge (ULJ) conducted a hearing. Vang and his son testified, explaining that Vang’s request to reactivate his original account rather than file a new account was a mistake and that he had been unsuccessfully searching for work since his employment ended. Vang testified that the situation was unfair because he only received three weeks of benefit payments on the original account, because he lacked prior experience with the online-application program, and because the application permitted one mistaken election to negatively impact his potential benefits. He also expressed frustration with the online application, implying that the application allowed error but that a live application clerk would not have allowed Vang to make the error.

The ULJ affirmed the determination of benefit account, finding that Vang established a benefit account effective November 11, 2018; that he did not work during 2019; that he mistakenly reactivated his account on October 14, 2019; and that he received benefit payments through November 9, 2019. The ULJ recognized that an applicant may withdraw an account and establish a new one, as long as no benefits were paid to the applicant on the original account pursuant to Minn. Stat. § 268.07, subd. 3b(c) (2018). But because Vang had already received three weeks of payments, the ULJ concluded that Vang was no longer able to withdraw his original account. And because Vang had not worked in 2019, the ULJ concluded that Vang was ineligible to open a new account pursuant to Minn. Stat. § 268.07, subd. 2(b) (2018).

Vang filed a request for reconsideration, reiterating that he mistakenly chose to reactivate his original account, and he urged the ULJ to reject a strict statutory reading. Vang offered to return the three weeks of payments so that he could withdraw his original account and apply for a new account. The ULJ affirmed the decision on reconsideration, acknowledging Vang's explanation and concluding that "there is no exception for honest mistakes under the governing statute. An account may not be withdrawn after benefit payments have been made on the account."

Vang appeals by writ of certiorari.

D E C I S I O N

Vang urges us to reverse the ULJ's decision on reconsideration. Vang argues that he made an honest mistake and that strict application of the law contradicts the purpose of

the unemployment insurance program. We affirm because the ULJ did not misapply the law.

We may reverse a ULJ's decision on reconsideration if the petitioner's substantial rights are affected because the ULJ's decision violates the law, is "unsupported by substantial evidence," or is "arbitrary or capricious." Minn. Stat. § 268.105, subd. 7(d) (2018). Vang's arguments raise questions of statutory interpretation, which we review de novo when the facts are not disputed. *Menyweather v. Fedtech, Inc.*, 872 N.W.2d 543, 545 (Minn. App. 2015). Unemployment statutes are "remedial in nature and must be applied in favor of awarding unemployment benefits." Minn. Stat. § 268.031, subd. 2 (2018). Statutes that would preclude an applicant from receiving benefits "must be narrowly construed." *Id.*

When an applicant requests unemployment benefits, DEED's commissioner must send the applicant a determination of benefit account specifying the applicant's base period, benefit year, weekly benefit amount, and maximum benefit amount. Minn. Stat. § 268.07, subd. 1(b) (2018). An applicant may be eligible for benefits if "the week for which unemployment benefits are requested is in the applicant's benefit year." Minn. Stat. § 268.085, subd. 1(2) (2018). Once a benefit account is established, a new benefit account may be established in one of two ways. First, an applicant can establish a new account after the expiration of a prior benefit year if the applicant has "performed actual work in subsequent covered employment and ha[s] been paid [a qualifying level of] wages in one or more completed calendar quarters that started after the effective date of the prior benefit account." Minn. Stat. § 268.07, subd. 2(b). Second, an applicant may withdraw an existing

benefit account and establish a new benefit account, so long as the applicant “has not been paid any unemployment benefits on th[e] benefit account” to be withdrawn. Minn. Stat. § 268.07, subd. 3b(c).

Even narrowly construing these provisions in Vang’s favor, *see* Minn. Stat. § 268.031, subd. 2, we cannot conclude that the ULJ erred. Vang did not receive sufficient wages for actual work in covered employment in 2019, and he therefore was not eligible to establish a new benefit account pursuant to Minn. Stat. § 268.085, subd. 1(2). Vang received three weeks of payments on his original account during the benefit year ending November 9, 2019, and he was thereby ineligible to withdraw the original account and file a new application pursuant to Minn. Stat. § 268.07, subd. 3b(c). The ULJ correctly applied the law.

Vang suggests that fairness warrants an exception for honest mistakes.¹ But “[t]here is no equitable or common law denial or allowance of unemployment benefits.” Minn. Stat. § 268.069, subd. 3 (2018). We have rejected equitable arguments even when equity might weigh in a relator’s favor. *See, e.g., Lewis v. W. Side Cmty. Health Servs., Inc.*, 802 N.W.2d 853, 859–60 (Minn. App. 2011) (rejecting an argument that equity favored the relator’s eligibility for benefits where similarly situated employees had been determined eligible); *Irvine v. St. John’s Lutheran Church of Mound*, 779 N.W.2d 101, 105 (Minn. App. 2010) (rejecting a relator’s equitable argument and explaining that “no liberal

¹ Vang also argues that the application system is flawed and should not have presented an option so obviously disadvantageous to him. He cites no support for the proposition that DEED should effectively recommend how applicants manage their benefit accounts.

construction of the statute in favor of its remedial purpose or narrow construction of ineligibility requirements can allow us to reach the result relator seeks”). The legislature set forth provisions governing the establishment of new benefit accounts and the withdrawal of existing accounts, but it made no exception for mistakes or omissions and granted no authority to the ULJ to contravene the statute in the interest of equity.²

We acknowledge the harsh and unforgiving application of the law in this case, where an honest mistake produced a significant detriment. But this court, like the ULJ, must apply the law as it is written by the legislature. *See Int’l Bhd. of Elec. Workers v. City of St. Cloud*, 765 N.W.2d 64, 68 (Minn. 2009). To the extent the law fails to recognize that human error or other mitigating circumstances might warrant statutory exceptions or expanded discretion with the ULJ, it is up to the legislature to address the inequity. *See U.S. Bank N.A. v. Cold Spring Granite Co.*, 802 N.W.2d 363, 371 (Minn. 2011). Despite the unfortunate effect of Vang’s mistaken election, we are unable to conclude that the ULJ erred.

Affirmed.

² We add that, if the legislature desired to allow an exception for good-faith errors, it could have done so. *Compare* Minn. Stat. § 268.07, subds. 2, 3b(c) (2018), *with* Minn. Stat. §§ 268.095, subd. 6(b)(6) (excluding “good faith errors in judgment” from definition of “employment misconduct”), .18, subd. 2(a) (excluding false statement based on good-faith belief from prohibition against misrepresentation) (2018).