This opinion is nonprecedential except as provided by Minn. R. Civ. App. P. 136.01, subd. 1(c).

STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1052

Barbara Jacobson,
Relator,

vs.

County of Dakota,
Respondent,

Department of Employment and Economic Development,
Respondent.

Filed April 19, 2021
Affirmed
Connolly, Judge

Department of Employment and Economic Development
File No. 39398919-3

Barbara J. Jacobson, Strandburg, South Dakota (pro se relator)

Kathryn M. Keena, Acting Dakota County Attorney, William M. Topka, Assistant County Attorney, Hastings, Minnesota (for respondent county)

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

Considered and decided by Smith, Tracy M., Presiding Judge; Connolly, Judge; and Klaphake, Judge.*

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

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Relator challenges the determination of an unemployment-law judge (ULJ) that relator was ineligible for unemployment benefits, arguing that a pension that was contributed to by a base-period employer prior to, but not during, the base period should not be included in the calculation for unemployment benefits. Because we see no error in the ULJ's statutory interpretation, we affirm.

FACTS

Pro se relator Barbara Jacobson retired from employment with respondent Dakota County in 2016. During her full-time employment from 1995 through 2016, Dakota County contributed to her pension. After her retirement, relator began receiving monthly pension benefits from the Public Employees Retirement Association (PERA) in the gross amount of $1,956.11 a month.

Post-retirement, relator worked several temporary positions, including one with Dakota County. In 2019, relator worked for Dakota County on a temporary basis, and while the county had previously contributed to her pension before her retirement, it did not contribute to her pension in 2019. In 2020, due to the COVID-19 pandemic, relator's scheduled job with Data Recognition Corporation was cancelled and the business was closed. As a result, relator applied for unemployment benefits on April 5, 2020. At this point, relator was still receiving her monthly PERA pension.

On May 7, 2020, a respondent Department of Employment and Economic Development administrative clerk issued a determination of ineligibility because, at the time she filed for unemployment, relator was receiving a pension that Dakota County contributed to and Dakota County was one of her employers during her base period. The agency determination stated that the relator was ineligible for any amount of unemployment benefits.

The ULJ agreed with the agency's determination, and relator filed a request for reconsideration. The ULJ issued an order affirming his decision. Relator challenges that decision.

DECISION

Both parties agree that relator was receiving a pension in 2020 and that a base-period employer, Dakota County, had previously contributed to the pension, although not during the 2019 base period. If the relevant facts are not in dispute, this court applies "a *de novo* standard of review to the ULJ's interpretation of the unemployment statutes and to the ultimate question of whether an applicant is eligible to receive unemployment benefits." *Menyweather v. Fedtech, Inc.*, 872 N.W.2d 543, 545 (Minn. App. 2015).

"An applicant is not eligible to receive unemployment benefits for any week the applicant is receiving [or] will receive . . . a pension . . . from any plan contributed to by a base period employer." Minn. Stat. § 268.085, subd. 3c (2020). When the plain language of the statute is clear, this court must apply the plain language and does not need to look elsewhere to assist in its interpretation. *Cocchiarella v. Driggs,* 884 N.W.2d 621, 624 (Minn. 2016). And when construing the statute, this court should not add words or meaning to a statute that was either purposely omitted or inadvertently overlooked. *Premier Bank v. Becker Dev., LLC*, 785 N.W.2d 753, 760 (Minn. 2010).

Here, the plain language of the statute supports the ULJ's decision. The plain language of the statute does not require that a base-period employer contribute to a pension during the base period, it requires only that, at the time that relator is seeking unemployment benefits, the individual receives a pension to which the base-period employer contributed to. *See* Minn. Stat. § 268.085, subd. 3c. When relator applied for unemployment benefits on April 5, 2020, she was receiving $1,956.11 per month from a pension contributed to by Dakota County. Dakota County was one of her employers during her base period. Although Dakota County did not contribute to the pension during the base period, the statute does not specify that an employer must have contributed to the pension during the base period, so that requirement should not be read into the statute.

Relator also raised two additional legal issues: whether the relator is eligible for Pandemic Unemployment Assistance (PUA) under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act, and whether the Minnesota statute conforms to the Federal Unemployment Tax Act (FUTA). The ULJ did not develop the record with respect to the PUA issue, or address it in his decision. Therefore, that issue is not before this court. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (declining to consider a question raised below "if it was not passed on by the" factfinder (quotation omitted)); *Peterson v. Ne. Bank—Minneapolis*, 805 N.W.2d 878, 883 (Minn. App. 2011) (declining to review an issue not considered by a ULJ and noting the factual nature of the unemployment-benefits analysis). Regarding FUTA, the act only outlines what the U.S. Secretary of Labor considers when certifying each year that a state conforms to federal requirements. 26 U.S.C. § 3304 (2018). Thus, it is not directly related to the relator's benefits.

Affirmed.