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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0081**

In the Matter of: Karen M. Erickson.

**Filed August 30, 2021
Affirmed
Johnson, Judge**

Department of Employment and Economic Development
File No. 42407829-2

Karen Erickson, Howard Lake, Minnesota (*pro se* relator)

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

Considered and decided by Gaitas, Presiding Judge; Worke, Judge; and Johnson, Judge.

NONPRECEDENTIAL OPINION

JOHNSON, Judge

Karen M. Erickson applied for unemployment benefits and was denied because she had not earned enough wages in the prior quarter-year. We conclude that the unemployment-law judge did not err by determining that Erickson is not entitled to benefits because she did not have enough wage credits to establish a benefit account. Therefore, we affirm.

FACTS

Erickson worked as a certified nursing assistant (CNA) at Augustana Dassel Lakeside Community, a nursing home, from September 2018 to February 2020, when her employment was terminated. Erickson applied for unemployment benefits. In March 2020, the department of employment and economic development made an initial determination that she was ineligible on the ground that she was terminated for aggravated employment misconduct. Erickson filed an administrative appeal. An unemployment-law judge (ULJ) found that Erickson had engaged in aggravated employment misconduct and, thus, determined that she was ineligible for unemployment benefits. Because Erickson had engaged in aggravated employment misconduct, the department canceled all of the wage credits Erickson had earned while working at Augustana. Erickson did not request reconsideration, and the decision became final.

In March 2020, Erickson began working as a CNA for Legacy of Delano, another nursing home. Legacy terminated Erickson's employment in June 2020 for unsatisfactory performance. Erickson applied for unemployment benefits on June 30, 2020, with an effective date of June 28, 2020. The department made an initial determination that Erickson does not qualify for a benefit account because she did not have sufficient wage credits during the applicable base period of April 1, 2019, to March 31, 2020.

Erickson filed an administrative appeal. A ULJ conducted a hearing by telephone in September 2020. The ULJ found that Erickson filed her most recent application for benefits on June 30, 2020, which means that the applicable base period is April 1, 2019, to March 31, 2020. The ULJ found that Erickson had no wage credits from her work for

Augustana because they had been canceled. The ULJ found that Erickson had wage credits of \$1,449 from her work for Legacy because that is the amount she earned there during the applicable base period. The ULJ reasoned that Erickson's wage credits fall short of the statutory minimum of \$3,000. Accordingly, the ULJ determined that Erickson does not have enough wage credits to establish a benefit account. Erickson requested reconsideration. The ULJ affirmed the prior ruling. Erickson, appearing *pro se*, appeals by way of a petition for a writ of certiorari.

DECISION

Erickson argues that the ULJ erred by concluding that she does not have sufficient wage credits to establish a benefit account.

The department must pay unemployment benefits to an applicant who meets five statutory requirements. Minn. Stat. § 268.069, subd. 1 (2020). The first of those five requirements is that the applicant has established a benefit account. *Id.*, subd. 1(1); *see also* Minn. Stat. § 268.07 (2020). To establish a benefit account, an applicant must have earned a minimum amount of “wage credits” during the relevant period of time. Minn. Stat. § 268.07, subd. 2(a); *Samuelson v. Prudential Real Estate*, 696 N.W.2d 830, 832 (Minn. App. 2005). “Wage credits” are defined as “the amount of wages paid within an applicant's base period for covered employment.” Minn. Stat. § 268.035, subd. 27 (2020). The applicable “base period” is “the most recent four completed calendar quarters before the effective date . . . if the application has an effective date occurring after the month following the most recent completed calendar quarter.” *Id.*, subd. 4(a). An applicant must have earned, during the applicable base period, “at least 5.3 percent of the state's average

annual wage rounded down to the next lower \$100.” Minn. Stat. § 268.07, subd. 2(a). The department represents to the court that the statutory formula results in a wage-credit threshold of \$3,000, and Erickson does not dispute that number.

This court reviews a ULJ’s decision regarding eligibility for unemployment benefits to determine whether the findings, inferences, conclusion, or decision are affected by an error of law, are unsupported by substantial evidence in view of the entire record, or are arbitrary or capricious. See Minn. Stat. § 268.105, subd. 7(d) (2020). If the relevant facts are not in dispute, we apply a *de novo* standard of review to the question whether an applicant is eligible to receive unemployment benefits. *Irvine v. St. John’s Lutheran Church*, 779 N.W.2d 101, 103 (Minn. App. 2010) (citing *Markel v. City of Circle Pines*, 479 N.W.2d 382, 384 (Minn. 1992)).

In her appellate brief, Erickson makes numerous arguments, many of which relate to her attempts to re-apply for unemployment benefits after June 30, 2020. In its responsive brief, the department notes that a department representative informed Erickson in August 2020 that if she withdrew her application and reapplied, she would satisfy the \$3,000 wage-credit requirement because she could rely on wage credits earned during the second quarter of 2020. Nonetheless, to resolve this appeal, we must focus on Erickson’s arguments that challenge the ULJ’s decision that, when she filed her application in June 2020, she did not have enough wage credits in the applicable base period to establish a benefit account.

Erickson’s application for unemployment benefits was effective as of June 28, 2020. The applicable base period is the four prior fully completed quarters. See Minn. Stat. § 268.035, subd. 4(a). Accordingly, Erickson’s base period is April 1, 2019 to March 31,

2020. Erickson worked for two employers during her base period: Augustana and Legacy. She has no wage credits from her employment with Augustana because they were canceled based on the determination that she was discharged for aggravated employment misconduct. Erickson has \$1,449 in wage credits from her employment with Legacy, where she worked only in the last month of the applicable base period. That amount is less than the minimum amount of wage credits that are needed to establish a benefit account. See Minn. Stat. § 268.07, subd. 2(a). Because Erickson does not have enough wage credits to establish a benefit account, she is not entitled to unemployment benefits.

Thus, the ULJ did not err by concluding that Erickson does not have enough wage credits to establish a benefit account.

Affirmed.