

*This opinion is nonprecedential except as provided by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
A21-0659**

In the Matter of: Timothy Justin Peterson.

**Filed March 7, 2022
Affirmed
Johnson, Judge**

Department of Employment and Economic Development
File No. 43045719-3

Timothy J. Peterson, Northfield, Minnesota (*pro se* relator)

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

Considered and decided by Jesson, Presiding Judge; Johnson, Judge; and Reilly, Judge.

NONPRECEDENTIAL OPINION

JOHNSON, Judge

Timothy Justin Peterson applied for unemployment benefits more than four months after becoming unemployed. He requested that the effective date of his application be backdated to the date on which he became unemployed. An unemployment-law judge denied the request on the ground that the applicable statute allows an application to be backdated by only one week. We affirm.

FACTS

Peterson was employed by a catering company until March 29, 2020, when he was furloughed because of the COVID-19 pandemic. On August 6, 2020, he submitted an application for unemployment benefits to the department of employment and economic development. When he submitted the application, he requested that the effective date of the application be backdated to July 26, 2020, and the department did so. Peterson later requested that the effective date of the application be backdated further to March 29, 2020, the date on which he was furloughed. The department denied that request on the ground that backdating to March 29, 2020, is not allowed by law. Peterson filed an administrative appeal, and an unemployment-law judge (ULJ) held an evidentiary hearing by telephone. In February 2021, the ULJ determined that the effective date of Peterson's application cannot be backdated to March 29, 2020. Peterson requested reconsideration, and the ULJ affirmed his initial decision. Peterson appeals by way of a writ of certiorari.

DECISION

Peterson argues that the ULJ erred by determining that the effective date of his application cannot be backdated to March 29, 2020, the date on which he was furloughed.

The issue raised by Peterson's appeal is governed by various provisions of the statutes concerning unemployment benefits. A person may be eligible to receive unemployment benefits only if he or she "has filed an application for unemployment benefits and established a benefit account." Minn. Stat. § 268.069, subd. 1(1) (2020). "An applicant may be eligible to receive unemployment benefits for any week if . . . the applicant has filed a continued request for unemployment benefits for that week"

Minn. Stat. § 268.085, subd. 1(1) (2020). “An applicant is ineligible for unemployment benefits for any week . . . that occurs before the effective date of a benefit account” *Id.*, subd. 2(1). “An application for unemployment benefits is effective the Sunday of the calendar week that the application was filed.” Minn. Stat. § 268.07, subd. 3b(a) (2020).

The effective date of an application for unemployment benefits may be adjusted only in limited ways. An application “may be backdated one calendar week before the Sunday of the week the application was actually filed if the applicant requests the backdating within seven calendar days of the date the application is filed” and “if the applicant was unemployed during the period of the backdating.” *Id.* Also, if a person “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 *Bukkuri v. Department of Employment & Economic Development*, 729 N.W.2d 20 (Minn. App. 2007), a person applied for unemployment benefits three months after becoming unemployed, requested that the effective date of the application be backdated to his last date of employment, and had his request denied. *Id.* at 21. We concluded that the ULJ did not err because the applicable statute generally limits backdating to only one week and because the applicant did not satisfy the statutory exception that might have allowed additional backdating. *Id.* at 22-23.

In this case, the relevant facts are undisputed. Peterson became unemployed on March 29, 2020. He submitted his application for unemployment benefits on August 6, 2020. Peterson testified that he did not contact the department or attempt to file an

application before August 6, 2020. Accordingly, he did not qualify for the exception for persons who attempt to file an application but are prevented from doing so by the department. *See* Minn. Stat. § 268.07, subd. 3b(a). In light of the applicable statutes and the relevant facts, the ULJ properly determined that the department is not authorized by law to backdate Peterson’s application to March 29, 2020. Furthermore, both the department and this court are “without legal authority to supply a statutory exception that the legislature either intentionally or inadvertently omitted.” *See Bukkuri*, 729 N.W.2d at 23.

Thus, the ULJ did not err by denying Peterson’s request that his application, which was submitted on August 6, 2020, be backdated to March 29, 2020.

Affirmed.

A handwritten signature in cursive script, appearing to read "Matthew Johnson".