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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A26-0076**

Derek L. Connolly,
Relator,

vs.

Mechanical Resources, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed September 28, 2026
Affirmed
Harris, Judge**

Department of Employment and Economic Development
File No. 52016925-3

Derek Lee Connolly, St. Peter, Minnesota (self-represented relator)

Mechanical Resources, Inc., Mankato, Minnesota (respondent employer)

Melannie M. Markham, Keri A. Phillips, Minnesota Department of Employment and
Economic Development, St. Paul, Minnesota (for respondent department)

Considered and decided by Wheelock, Presiding Judge; Frisch, Chief Judge; and
Harris, Judge.

NONPRECEDENTIAL OPINION

HARRIS, Judge

In this unemployment-benefits appeal, relator challenges the decision of the unemployment-law judge (ULJ) that he was ineligible for unemployment benefits because he was not available for or actively seeking suitable employment. Because the ULJ's decision is supported by substantial evidence in the record, we affirm.

FACTS

The following summarizes the ULJ's written factual findings along with the record evidence relevant to the issues on appeal.

Relator Derek L. Connolly was employed by respondent-employer Mechanical Resources Inc. from July 2021 to November 2024. In November 2024, Connolly was laid off from Mechanical Resources because business was slow. Connolly established an unemployment-benefits account with respondent Department of Employment and Economic Development (DEED). Connolly requested and received weekly unemployment benefits from November 2024 to June 1, 2025.

While unemployed, Connolly decided to start his own business. Connolly spoke with a DEED representative, who recommended that Connolly participate in a small-business program. Connolly participated in the program before creating an LLC in February 2025. Shortly after establishing his LLC, Connolly put his business "on hold" to care for his daughter's medical needs and because he did not have time or money to pursue his contractor's license. Between setting up his LLC in February and the end of receiving unemployment benefits in June, Connolly contacted two individuals about potential job

openings but was mainly focused on his daughter's care. Connolly resumed his small business after he exhausted his unemployment benefits in June 2025, working about 35 to 40 hours per week.

In August 2025, DEED determined that Connolly was ineligible to receive unemployment benefits between February 2025 and June 2025 because Connolly "restricted [his] availability to look for covered employment due to starting [his] own business." Connolly appealed DEED's determination.

The ULJ held an evidentiary hearing. Connolly testified that he believed the layoff was seasonal, but that Mechanical Resources would rehire him in the spring when more work was available. When asked if he was looking for work between February 2025 and June 2025, Connolly stated that he "reach[ed] out to a couple people" but that certain factors limited his potential job prospects, such as a decrease in pay and his involvement in caring for his daughter.

Following the hearing, the ULJ issued its findings of fact and decision. The ULJ concluded that Connolly was ineligible for unemployment benefits because "he was not ready, willing, or able to accept suitable employment" between February 2025 and June 2025. It reasoned that "Connolly focused on his family and his daughter's care needs," "took no action to engage in employment," and "wait[ed] for seasonal work to return." The ULJ also found that Connolly also did not apply for any jobs during that time period and "only devot[ed] time to self-employment because working on his own provide[d] more flexibility for his family." The ULJ determined: "Without reasonable and diligent efforts

to search for and apply to suitable work, Connolly [was] not actively seeking [employment].”

Connolly filed a request for reconsideration of the ULJ’s September 3, 2025 determination. The ULJ denied reconsideration and affirmed its previous determination, concluding that “Connolly [was] not . . . available for or actively seeking suitable employment because he was waiting for a seasonable job to restart, caring for his child, and/or building his own business.” It also determined that Connolly “provided no new information or arguments that would likely change the outcome or show the testimony from the hearing was false or likely false.”

Connolly appeals.

DECISION

Minnesota’s unemployment insurance program is meant to assist those who become “unemployed through no fault of their own.” Minn. Stat. § 268.03, subd. 1 (2024). Minnesota Unemployment Insurance Law is “remedial in nature and must be applied in favor of awarding unemployment benefits.” Minn. Stat. § 268.031, subd. 2 (2024). “[A]ny statutory provision that would preclude an applicant from receiving benefits must be narrowly construed.” *Id.* To be eligible to receive unemployment benefits, an applicant must meet all the ongoing eligibility requirements in Minnesota Statutes section 268.085, subdivision 1 (2024). *See McNeilly v. Dep’t of Emp. & Econ. Dev.*, 778 N.W.2d 707, 710-11 (Minn. App. 2010). Among other requirements, applicants must be “available for suitable employment” and “actively seeking suitable employment.” Minn. Stat. § 268.085, subd. 1(4), (5).

Connolly challenges the ULJ's order, which found him ineligible to receive unemployment benefits because he was (1) not available to accept suitable employment and (2) not actively seeking suitable employment.

I. The ULJ did not err in determining that Connolly was not available for suitable employment.

Connolly argues that the evidence is insufficient to support the ULJ's determination that he was not available for suitable employment.

Whether an applicant is available for suitable employment is a question of fact. *Goodman v. Minn. Dep't of Emp. Servs.*, 255 N.W.2d 222, 223 (Minn. 1977). “[W]e review the ULJ’s findings of fact in the light most favorable to the decision and will not disturb those findings as long as there is evidence in the record that reasonably tends to sustain them.” *Wilson v. Mortg. Res. Ctr., Inc.*, 888 N.W.2d 452, 460 (Minn. 2016) (quotations omitted). “We defer to the ULJ when reviewing credibility and conflicting evidence.” *Lamah v. Doherty Emp. Grp., Inc.*, 737 N.W.2d 595, 598 (Minn. App. 2007). We may reverse or modify the ULJ’s decision if it was unsupported by substantial evidence in view of the entire record or affected by an error of law, thereby prejudicing the applicant’s substantial rights. Minn. Stat. § 268.105, subd. 7(d)(4), (5) (2024).

To be available for suitable employment, an applicant must be “ready, willing, and able to accept suitable employment.” Minn. Stat. § 268.085, subd. 15(a) (2024). “The attachment to the work force must be genuine.” *Id.* “An applicant may restrict availability to suitable employment, but there must be no other restrictions, either self-imposed or created by circumstances, temporary or permanent, that prevent accepting suitable

employment.” *Id.* “An applicant who is absent from the labor market area for personal reasons, other than to search for work, is not ‘available for suitable employment.’” Minn. Stat. § 268.085, subd. 15(c) (2024).

Connolly contends that the evidence is insufficient to support the ULJ’s determination that he was not available for suitable employment because (A) he certified weekly that he was available for suitable employment, (B) evidence of his LLC alone did not establish that he was unavailable for suitable employment, (C) he never refused suitable employment, and (D) the ULJ improperly relied on conduct that occurred after the unemployment-benefits period ended to support a finding of ineligibility. We address each argument in turn.

A. The ULJ did not err in finding that Connolly was not ready, willing, or able to accept suitable employment.

Connolly argues that the ULJ erred in determining that he was not ready, willing, or able to accept suitable employment because he truthfully certified weekly that he was available for work. He asserts: “Weekly certification is direct evidence of continued attachment to the workforce.”

To continue to receive unemployment benefits, an applicant must certify each week that they meet the “ongoing eligibility requirements for unemployment benefits under section 268.085.” Minn. Stat. § 268.0865, subd. 1 (2024). Section 268.085 provides, in relevant part, that an applicant may be eligible to receive unemployment benefits for any week that the applicant was “ready, willing, and able to accept suitable employment.” Minn. Stat. § 268.085, subs. 1(4), 15(a). An applicant does not meet the ongoing

eligibility requirements under section 268.085 if they are “absent from the labor market area for personal reasons, other than to search for work.” Minn. Stat. § 268.085, subd. 15(c).

The ULJ found that Connolly “was not ready, willing, or able to accept suitable employment” during the unemployment-benefits period because he was primarily focused on his daughter’s medical care. This finding is supported by the record. At the evidentiary hearing, Connolly testified that during the unemployment-benefits period, his daughter required medical treatment. He explained that he attended appointments with the medical facility, his daughter’s school, doctors, social workers, and therapists, which were “very time consuming.” When the ULJ asked if Connolly was looking for work during this time, he testified that he was “nervous about starting a job” because of the demanding nature of his daughter’s care.

The ULJ did not err by finding that Connolly did not establish that he met the ongoing eligibility requirements for unemployment benefits, despite certifying weekly that he was available for work. During the unemployment-benefits period, Connolly was absent from the labor market to care for his daughter’s medical needs. While understandable, this temporary circumstance prevented Connolly from accepting suitable employment. *See* Minn. Stat. § 268.085, subd. 15(a) (stating that “there must be no other restrictions, either self-imposed or created by circumstances, temporary or permanent, that prevent accepting suitable employment”).

Accordingly, the ULJ did not err in determining that Connolly was not ready, willing, or able to accept suitable employment.

B. The ULJ's ineligibility determination was not based solely on the establishment of Connolly's LLC.

Connolly argues that the establishment of his LLC was the primary basis for the ineligibility determination. He asserts that evidence of the creation and existence of his LLC alone was insufficient to prove that he was not available to accept suitable employment. Connolly misstates the record.

To determine whether employment is suitable for an applicant seeking unemployment benefits, “primary consideration is given to the temporary or permanent nature of the applicant’s separation from employment and whether the applicant has favorable prospects of finding employment in the applicant’s usual or customary occupation at the applicant’s past wage level within a reasonable period of time.” Minn. Stat. § 268.035, subd. 23a(b) (2024). “If prospects [of suitable employment] are unfavorable, employment at lower skill or wage levels is suitable if the applicant is reasonably suited for the employment considering the applicant’s education, training, work experience, and current physical and mental ability.” *Id.*

The ULJ found that suitable employment for Connolly paid around \$25 per hour and included “full-time work in residential construction, carpentry and woodworking, and system installation.” The ULJ noted that because “construction had seasonal breaks, suitable employment also include[d] temporary work so long as the average gross weekly wages [were] equal to or more than 150 percent of the applicant’s weekly unemployment benefit amount.” The ULJ determined that between February 2025 and June 2025,

Connolly was not available to accept suitable employment because he “took no action to engage in employment” and instead, “wait[ed] for seasonal work to return.”

The ULJ’s findings are supported by the record. Connolly testified that at the time he was laid off, he “felt pretty confident” that Mechanical Resources would rehire him when more work was available. Connolly stated that, while unemployed, he reached out to two individuals for work. He testified that he contacted a former colleague from a different company but discovered that the company was “in a slump.” He also “reach[ed] out to another guy, but he no longer worked for that company anymore. So that was kind of a . . . dead end.” Connolly noted that other job prospects would involve a substantial decrease in pay, so he decided to “keep looking instead of just jumping on the first thing.” Connolly testified that when his benefits ceased in June 2025, he was not contacted by Mechanical Resources to return and ultimately decided to continue working on his small business.

Contrary to Connolly’s assertion, the ULJ’s determination was not based solely on the establishment of Connolly’s LLC. Rather, the ULJ’s determination was based on Connolly’s failure to seek temporary or full-time employment in residential construction, carpentry and woodworking, and system installation. Considering the nature of his daughter’s care, Connolly could have obtained temporary work, so long as the average gross weekly wages were “equal to or more than 150 percent of [his] weekly unemployment-benefit amount.” Connolly also could have obtained employment at a lower wage level, depending on his education, training, and work experience. *See* Minn. Stat. § 268.035, subd. 23a(b). Connolly’s decision to “keep looking instead of just jumping

on the first thing” supports the ULJ’s finding that he was not available to accept suitable employment.

We conclude that the ULJ did not err because its determination is adequately supported by the record.

C. The ULJ did not find that Connolly refused suitable employment from Mechanical Resources.

Connolly appears to argue that the ULJ improperly based its ineligibility determination on a refusal to accept suitable employment from Mechanical Resources. Connolly’s argument stems from his belief that his layoff was seasonal, but that the company would rehire him during the spring and summer. He asserts that there was no evidence that he declined suitable employment because he “was laid off due to lack of work” and “[t]he employer confirmed he was not called back and no job offer was refused.” We are not persuaded.

The record does not support Connolly’s contention that his ineligibility was based on a refusal to accept suitable employment from Mechanical Resources. The ULJ determined that Connolly was not available to accept suitable employment because he was “waiting for seasonal work to return.” At the evidentiary hearing, a representative from Mechanical Resources testified that Connolly was laid off due to lack of work. He stated that no employees had been called back since the layoff, and that they did not anticipate any work for a while. Connolly could not have refused suitable employment from Mechanical Resources because the company did not offer him a job.

The ULJ did not find that Connolly was ineligible for unemployment benefits because he refused suitable employment from Mechanical Resources. The ULJ found that Connolly was ineligible because he merely waited for seasonal work to return, which is supported by record evidence. Therefore, we will not disturb the ULJ's findings. *See Wilson*, 888 N.W.2d at 460.

D. The ULJ did not rely on Connolly's conduct after the unemployment-benefits period as a basis for ineligibility.

Connolly argues that the ULJ improperly relied on his self-employment efforts after June 2025, when his unemployment benefits ceased, as a retroactive basis for conclude that he was not available for suitable employment. This argument is unavailing.

In determining that Connolly was not available for suitable employment, the ULJ stated:

From February 2 to about June 1, 2025, Connolly was not attached to the workforce. During that time, Connolly focused on his family and his daughter's care needs. He was not ready, willing, or able to accept suitable employment. Instead, Connolly took no action to engage in employment, waiting for seasonal work to return. After about June 1, 2025, Connolly focused his efforts on only self-employment. This is a restriction beyond suitable employment.

The record clearly demonstrates that the ULJ focused on the time period of February 2025 to June 2025. The ULJ determined that during this time period Connolly primarily focused on his daughter's medical care. Connolly testified that, prior to his daughter's medical treatment, he participated in meetings with the medical facility and attended appointments with his daughter's health-care providers, which he described as "very time consuming." When asked whether he looked for work during this time, Connolly stated that he was

“nervous about starting a job” because of the demanding nature of his daughter’s care. Viewing the ULJ’s determination in its entirety, we conclude that the ULJ did not focus on the wrong time period.

In sum, we conclude that the ULJ did not err in determining that Connolly was ineligible to receive unemployment benefits because he was not available for suitable employment.

II. The ULJ did not err in determining that Connolly was not actively seeking employment.

Next, Connolly asserts that the evidence is insufficient to support the ULJ’s determination that he was not actively seeking employment. He maintains that he “truthfully certified each week that he was available for work,” and that the record lacks specific evidence to support the ULJ’s finding that he did not apply for any jobs.

Whether an applicant is actively seeking suitable employment is a question of fact. *McNeilly*, 778 N.W.2d at 711-12. To be eligible for unemployment benefits, an applicant must be “actively seeking suitable employment.” Minn. Stat. § 268.085, subd. 1(5). “Actively seeking suitable employment” is defined as “reasonable, diligent efforts an individual in similar circumstances would make if genuinely interested in obtaining suitable employment under the existing conditions in the labor market area.” *Id.*, subd. 16(a) (2024). If an applicant was laid off because of a lack of work, “an applicant must, when reasonable, contact those employers from whom the applicant was laid off because of lack of work and request suitable employment.” *Id.*, subd. 16(b) (2024).

While there is no bright-line definition of what constitutes actively seeking suitable employment, caselaw indicates that merely looking at employment listings, contacting acquaintances, and applying for a few positions is insufficient to demonstrate that an applicant is actively seeking suitable employment. *See, e.g., Pyeatt v. State, Dep't of Emp. Servs.*, 263 N.W.2d 394, 395 (Minn. 1978) (concluding that applicant failed to demonstrate that he had made a thorough and adequate work search by applying for six or seven positions over an eight-month period when approximately 25 positions were available); *Monson v. Minn. Dep't of Emp. Servs.*, 262 N.W.2d 171, 172 (Minn. 1978) (concluding that applicant's work search was inadequate when applicant researched an employment data bank, regularly consulted professional journals and newspaper notices, and applied for two or three positions in his field, but failed to explore other positions over a two-month period); *James v. Comm'r of Econ. Sec.*, 354 N.W.2d 840, 841-42 (Minn. App. 1984) (concluding that applicant was properly denied unemployment benefits because applicant did not follow the job search instructions to make several in-person job contacts each week), *rev. denied* (Minn. Dec. 20, 1984).

The ULJ determined that Connolly was not actively seeking suitable employment. It reasoned that Connolly did not make reasonable and diligent efforts to search for suitable work because he had not submitted any job applications and “only devot[ed] time to self-employment” during the time he was receiving benefits.

Our decision in *McNeilly* is instructive. There, a ULJ determined that the applicant was ineligible for unemployment benefits after he failed to actively seek employment following a seasonal layoff. *McNeilly*, 778 N.W.2d at 708. At the evidentiary hearing, the

applicant acknowledged that he had not applied for jobs, that the landscaping business that had employed him did not want him to work during the off-season, and that he had only “asked around for work.” *Id.* at 709. We concluded that the ULJ properly determined that the applicant failed to engage in any reasonable effort to find employment during the time that he received unemployment benefits. *Id.* at 712.

Like the applicant in *McNeilly*, Connolly testified that during the time he was receiving unemployment benefits he “reach[ed] out to a couple [of] people,” but ultimately decided to “keep looking instead of just jumping on the first thing.” He stated that he first reached out to a former colleague from a different employer and discovered that the company was “in a slump.” He then “reach[ed] out to another guy, but he no longer worked for that company anymore” so that was “kind of a dead end.” Merely reaching out to a couple of people does not constitute a reasonable effort to find employment. *McNeilly*, 778 N.W.2d at 712. Furthermore, there is no evidence in the record that Connolly submitted any job applications during the months he was receiving unemployment benefits. Nor does the record suggest that Connolly requested suitable employment from his former employer after he was laid off from lack of work. *See* Minn. Stat. § 268.085, subd. 16(b).

Connolly asserts that the ULJ failed to identify “how many applications were required per week,” “what job search activities were reported weekly,” “which specific weeks lacked job search activity,” and “what evidence contradicted weekly certifications.” He also contends that the ULJ’s decision is not supported by substantial evidence because it “lacks week-by-week findings for unemployment eligibility.” As mentioned above, there is no bright-line definition of what constitutes actively seeking suitable employment. And

whether an applicant is actively seeking suitable employment is a factual determination. *McNeilly*, 778 N.W.2d at 711-12; *see, e.g., Haub v. Dep't of Emp. & Econ. Dev.*, No. A13-1986, 2014 WL 2565698, at *4-5 (Minn. App. June 9, 2014) (reversing ULJ's decision that applicant was ineligible for unemployment benefits because applicant complied with her DEED-approved work-search plan and actively sought employment by posting her resume on an employment website, contacting several employers in her field, searching internet job sites, and visiting a workforce center); *In re Vue*, No. A22-0875, 2023 WL 3047979, at *2 (Minn. App. Apr. 24, 2023) (affirming ULJ's decision that applicant did not actively seek suitable employment when applicant spent six hours per week casually exploring potential employment opportunities and sending inquiries to three employers over a one-month period without submitting any job applications). Thus, the ULJ's factual finding that Connolly did not actively seek suitable employment is supported by record evidence.

For these reasons, the ULJ did not err in determining that Connolly was ineligible to receive unemployment benefits because he was not actively seeking employment.

Affirmed.