

*This opinion will be unpublished and  
may not be cited except as provided by  
Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A12-1125**

Tiffany Gilley,  
Relator,

vs.

Mayo Foundation for Medical Education & Research,  
Respondent,

Department of Employment and Economic Development,  
Respondent.

**Filed February 19, 2013**

**Affirmed  
Collins, Judge\***

Department of Employment and Economic Development  
File No. 29506241-3

Tiffany Gilley, Adams, Minnesota (pro se relator)

Mayo Foundation for Medical Education & Research, Rochester, Minnesota (respondent)

Lee B. Nelson, Minnesota Department of Employment and Economic Development, St.  
Paul, Minnesota (for respondent department)

Considered and decided by Cleary, Presiding Judge; Hooten, Judge; and Collins,  
Judge.

---

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

## UNPUBLISHED OPINION

**COLLINS**, Judge

Relator Tiffany Gilley failed to appear for a scheduled telephonic evidentiary hearing on her administrative appeal from the determination of her ineligibility for unemployment benefits. Gilley challenges the resulting order of the unemployment law judge (ULJ) dismissing her administrative appeal. Because Gilley failed to meet her burden to show good cause for missing the evidentiary hearing, we affirm.

### FACTS

Tiffany Gilley applied for unemployment benefits after her employment with respondent Mayo Foundation for Medical Education and Research was terminated. Respondent Minnesota Department of Employment and Economic Development (DEED) issued a determination of ineligibility after concluding that Gilley was discharged due to employment misconduct. Gilley appealed and DEED sent Gilley a notice advising her that (1) an evidentiary hearing had been scheduled, (2) the hearing would be conducted by telephone conference call, (3) the ULJ would contact Gilley at the appointed time to participate in the hearing, (4) the ULJ would call the telephone number that Gilley had provided, and (5) Gilley should contact DEED if she wanted the ULJ to contact her a different way.

On the date and at the time scheduled for the evidentiary hearing, the ULJ called the telephone number Gilley provided but reached her voicemail. The ULJ left a voicemail message telling Gilley to return the call as soon as possible if she wanted to

participate in the evidentiary hearing, and giving the telephone number to call. The ULJ attempted to contact Gilley again, 12 minutes later, but again reached her voicemail.

After the ULJ dismissed Gilley's appeal due to her failure to participate in the evidentiary hearing, Gilley requested reconsideration. Gilley asserted that her cellular telephone was "acting up" and not receiving calls, that she received the ULJ's voicemail message but her return call would not go through, and that she was able to call DEED three days later. The ULJ ruled that Gilley did not show good cause for missing the hearing, and affirmed the dismissal. This certiorari appeal followed.

### **D E C I S I O N**

When an applicant appeals a determination of ineligibility for unemployment benefits, an evidentiary hearing is scheduled before a ULJ. Minn. Stat. § 268.105, subd. 1(a) (2012). The applicant must personally participate in the hearing. *Id.*, subd. 1(d) (2012). When the applicant fails to participate in a scheduled hearing, the ULJ "has the discretion to dismiss the appeal by summary order." *Id.* The dismissal is final unless the applicant seeks reconsideration and establishes good cause for failing to participate in the evidentiary hearing. *Id.*

"Good cause" is defined as "a reason that would have prevented a reasonable person acting with due diligence from participating at the evidentiary hearing." *Id.*, subd. 2(d) (2012). If the applicant shows good cause for failing to participate at the evidentiary hearing, the ULJ must order an additional evidentiary hearing. *Id.* We review the ULJ's decision to decline a request for an additional hearing for an abuse of discretion. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 345 (Minn. App. 2006).

Gilley argues that the ULJ abused his discretion by ruling that she did not show good cause for failing to participate in the evidentiary hearing. Gilley does not dispute that the ULJ called her at the telephone number she provided. Rather, Gilley contends she established good cause for missing the hearing because she had cellular-telephone-service problems, which prevented her from receiving or placing calls during the scheduled hearing time. But the ULJ ruled that Gilley's explanation for not appearing was not "a reason that would have prevented a reasonable person acting with due diligence from participating at the evidentiary hearing." Minn. Stat. § 268.105, subd. 2(d). We agree.

Gilley asserts that she lives in a rural area, that she and her family and friends frequently have cellular-telephone-service problems, and that there are no public pay telephones in the area. But Gilley had been notified that her evidentiary hearing would be held by telephone conference call and that she should contact DEED if she wanted the ULJ to contact her at a different telephone number. Given the importance of the hearing, Gilley could have traveled to a nearby area with more reliable cellular-telephone service or arranged to have the ULJ contact her on a landline. Moreover, Gilley did not contact DEED to explain the circumstances of missing the hearing until three days later.

On this record, we conclude that the ULJ did not abuse his discretion in ruling that Gilley failed to meet her burden to show good cause for missing the evidentiary hearing.

**Affirmed.**