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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-1969**

Harriet M. Liedtke,
Relator,

vs.

Department of Employment and Economic Development,
Respondent.

**Filed June 10, 2013
Affirmed
Chutich, Judge**

Department of Employment and Economic Development
File No. 30012689-2

Harriet M. Liedtke, Burnsville, Minnesota (pro se relator)

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

Considered and decided by Peterson, Presiding Judge; Chutich, Judge; and Smith,
Judge.

UNPUBLISHED OPINION

CHUTICH, Judge

Relator Harriet M. Liedtke challenges an unemployment-law judge's
determination that \$3,933 in unemployment benefits erroneously paid to her is

recoverable under the Revenue Recapture Act. Because substantial evidence supports the finding that the recapture was proper, we affirm.

FACTS

In early 2010, Liedtke established a benefit account with the Minnesota Department of Employment and Economic Development (department). In March 2012, an unemployment-law judge determined that Liedtke had been overpaid unemployment benefits in the amount of \$3,933. After the unemployment-law judge reaffirmed the decision upon Liedtke's request for reconsideration, Liedtke brought a certiorari appeal to this court. *Liedtke v. Dep't of Emp't & Econ. Dev.*, A12-1016, 2013 WL 599360 (Minn. App. Feb. 19, 2013), *review denied* (Minn. Apr. 30, 2013).

Based on the unemployment-law judge's decision on reconsideration, the department filed a revenue recapture claim with the Minnesota Department of Revenue to recover the overpaid benefits from Liedtke's tax refund. Liedtke contested the recapture. An unemployment-law judge held a hearing on the issue and concluded that the department was properly pursuing the recapture under the Minnesota Revenue Recapture Act. Liedtke filed a request for reconsideration and the unemployment-law judge affirmed the previous decision. Liedtke now brings a certiorari appeal.

DECISION

This court may remand, reverse, or modify a decision of the unemployment-law judge if the substantial rights of the applicant were prejudiced because the findings, conclusions, or decision are affected by an error of law or are unsupported by substantial evidence. Minn. Stat. § 268.105, subd. 7(d) (2012). While we defer to the ULJ's

findings of fact if they are substantially supported by evidence in the record, we exercise independent judgment concerning questions of law. *Peterson v. Nw. Airlines, Inc.*, 753 N.W.2d 771, 774 (Minn. App. 2008), *review denied* (Minn. Oct. 1, 2008).

“A determination or amended determination that holds an applicant ineligible for unemployment benefits for periods an applicant has been paid benefits is considered an overpayment of those unemployment benefits.” Minn. Stat. § 268.101, subd. 6 (2012). Any applicant who receives an overpayment of unemployment benefits “must promptly repay the unemployment benefits to the trust fund.” Minn. Stat. § 268.18, subd. 1(a) (2012). Under the Revenue Recapture Act, a state agency may satisfy a debt owed to the agency by garnishing a debtor’s income-tax refund. Minn. Stat. §§ 270A.03, .04 (2012). The act defines a “debt” as a “legal obligation of a natural person to pay a fixed and certain amount of money, which equals or exceeds \$25 and which is due and payable to a claimant agency.” Minn. Stat. § 270A.03, subd. 5(a). Liedtke’s overpaid unemployment benefits are a “debt” under the Revenue Recapture Act.

The Revenue Recapture Act prohibits the department from submitting a claim for recapture if:

- (a) there is a written payment agreement between the debtor and the claimant agency in which revenue recapture is prohibited and the debtor is complying with the agreement,
- (b) the collection attempt would result in a loss of federal funds, or
- (c) the agency is unable to supply the department with necessary identifying information . . . , or
- (d) the debt is barred by section 541.05 [the six-year statute of limitations].

Minn. Stat. § 270A.04, subd. 2. During the hearing, the unemployment-law judge found that the recapture was clearly within the six-year statute of limitations, the department

had complied with the notice requirements, and Liedtke did not currently have a repayment program established with the department. Substantial evidence in the record supports these findings.

Liedtke does not contest these findings, but rather argues that the revenue recapture is premature because she appealed the department's determination that she erroneously received the benefits. Since Liedtke filed this most recent appeal contesting the revenue recapture, this court issued an opinion affirming the unemployment-law judge's determination that she received \$3,933 in overpayment of benefits. *See Liedtke*, 2013 WL 599360, at *1. Liedtke filed a petition for further review with the supreme court, which was denied. Thus, the department's determination that Liedtke erroneously received benefits is now final.

The unemployment-law judge did not err by concluding that the overpaid unemployment benefits totaling \$3,933 are properly recoverable through the Revenue Recapture Act.

Affirmed.