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Minn. Stat. § 480A.08, subd. 3 (2008).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A09-650**

Donnie Andrews,
Relator,

vs.

Department of Employment and Economic Development,
Respondent.

**Filed February 23, 2010
Affirmed
Toussaint, Chief Judge**

Department of Employment and Economic Development
File No. 21541691-2

Donnie R. Andrews, Minneapolis, Minnesota (pro se relator)

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

Considered and decided by Toussaint, Chief Judge; Hudson, Judge; and Huspeni,
Judge.*

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

UNPUBLISHED OPINION

TOUSSAINT, Chief Judge

Relator Donnie Andrews challenges the decision by the unemployment-law judge (ULJ) as to the amount of his weekly unemployment benefits. Because that amount was calculated correctly, we affirm.

DECISION

On certiorari review, this court will affirm the ULJ's decision unless it was based on legal error or not supported by substantial evidence in view of the entire record. Minn. Stat. § 268.105, subd. 7(d)(4), (5) (2008). “We view the ULJ's factual findings in the light most favorable to the decision[.]” *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). But we review questions of law independently. *Id.*

Relator established an unemployment-benefit account effective October 19, 2008, with a base period from July 1, 2007, through June 30, 2008. Wages from two employers, the City of Minneapolis and the United States Postal Service (USPS), were to be used. But when the determination of benefits was first calculated, respondent Department of Employment and Economic Development (DEED) had received wage information only from the city, and it calculated relator's weekly benefit amount based on his city wages to be \$107, with the maximum benefit amount available during his benefit year of \$1,845.

When DEED received the wage information from the USPS, it issued an amended determination of benefits. Although the amount of relator's weekly benefits was again calculated to be \$107, the maximum benefit amount available to him during his benefit

year increased to \$2,782. Relator appealed, but the ULJ reached the same results and affirmed on reconsideration.

Relator argues that his weekly unemployment-benefit amount must be incorrect because it did not increase when his wage credits from both employers were included in the calculations. To resolve this issue, we look to the statute, which sets out two methods of calculating an applicant's weekly benefit amount; whichever is higher will be used. Minn. Stat. § 268.07, subd. 2(b) (2008). Under the first method, DEED takes 50% of the applicant's average weekly wage during the one-year base period, which is calculated by dividing the total wage credits by 52; under the second, DEED takes 50% of the applicant's average weekly wage during the high quarter, which is calculated by dividing the high-quarter wage credits by 13. *Id.* The "high quarter" is defined as "the calendar quarter in an applicant's base period with the highest amount of wage credits." Minn. Stat. § 268.035, subd. 19 (2008).

Relator's weekly benefit amount remained the same before and after his USPS wages were included in the calculations for the following reasons. First, even when his USPS wages were included, the quarter in which relator earned the most wage credits was July-September 2007, when he was working only for the city and earned \$2,798.40. Second, the calculations using the high-quarter method resulted in a larger weekly benefit amount than the calculation using the base-year method, both before and after his USPS wages were included. Therefore, the ULJ correctly calculated the weekly benefit amount.

We wish to emphasize, however, that the maximum benefit amount available to relator – the total amount of unemployment benefits that relator can receive – in his benefit year *increased* when both his city wage credits and his USPS wage credits were considered. See Minn. Stat. § 268.07, subd. 2(d) (2008) (setting out method of calculating maximum benefit amount). When only his city wages were considered, his maximum benefit amount was \$1,845; when his USPS wages were added, his maximum benefit amount increased to \$2,782. In other words, relator is entitled to \$937 more in unemployment benefits during his benefit year when both his city and his USPS wages are considered than when only his city wages were considered.

The ULJ's calculations used the correct formulas under the law, and there was substantial evidence to support the findings as to relator's weekly benefit amount.

Affirmed.