

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2008).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A09-944**

Abdulkadir Mohamed,
Relator,

vs.

Industrial Staffing,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed February 23, 2010
Affirmed
Johnson, Judge**

Department of Employment and Economic Development
File No. 21803198-4

Abdulkadir Mohamed, Minneapolis, Minnesota (pro se relator)

Industrial Staffing, Minneapolis, Minnesota (respondent)

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

Considered and decided by Toussaint, Chief Judge; Johnson, Judge; and Crippen,
Judge.*

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

UNPUBLISHED OPINION

JOHNSON, Judge

Abdulkadir Mohamed filed an administrative appeal of the initial determination that he is ineligible to receive unemployment benefits because he quit his job. When the unemployment law judge (ULJ) assigned to his appeal called him for a telephonic hearing, he did not answer the call. Accordingly, the ULJ dismissed the appeal. Mohamed requested an additional hearing, stating that he did not receive the call because his cellular telephone did not have a good signal. The ULJ denied the request and upheld the dismissal of his administrative appeal. We affirm.

FACTS

In February 2009, the Department of Employment and Economic Development (DEED) determined that Mohamed is ineligible to receive unemployment benefits because he quit work without good reason caused by his employer. On February 18, 2009, Mohamed filed an administrative appeal. The next day, DEED sent him a notice that a telephonic hearing on his appeal would be held on March 16, 2009, at 8:15 a.m. The notice stated, “The [ULJ] will call you to participate in this hearing.” The notice also stated:

The hearing will be scheduled for approximately one hour with Judge Katherine Karsh. Judge Katherine Karsh will contact you at the following telephone number: If you would like the Judge to call you at an alternative telephone number, log into your account at www.uimn.org and select View and Maintain My Account or contact the Appeals office.

Please contact the Appeals Office immediately at the telephone numbers listed below if you need to reschedule your hearing because the date and time will not work

On the date of the hearing, the ULJ called the telephone number listed in the notice at 8:24 a.m. No one answered, and the call was directed to voice-mail. The ULJ then called an alternative number for Mohamed at 8:25 a.m. and again reached voice-mail. The ULJ tried the first number again at 8:27 a.m. and once again reached voice-mail. The ULJ left a message describing her unsuccessful attempts to reach Mohamed and advised him that she would treat his failure to answer her calls as a non-appearance and would dismiss the appeal. The next day, the ULJ issued an order dismissing the appeal.

Mohamed filed a request for reconsideration. He stated that he waited for the ULJ's telephone call but did not receive it because his cellular telephone had a bad signal. The ULJ determined that Mohamed did not have good cause for missing the telephonic hearing, denied his request for an additional evidentiary hearing, and affirmed the dismissal. Mohamed now appeals to this court by way of a writ of certiorari.

D E C I S I O N

Mohamed argues that the ULJ erred by determining that he did not have good cause for missing the telephonic hearing.

If an “appealing party fails to participate in the evidentiary hearing, the unemployment law judge has the discretion to dismiss the appeal by summary order.” Minn. Stat. § 268.105, subd. 1(d) (2008). “[I]f the party who failed to participate had good cause for failing to do so,” the ULJ shall set aside the decision and order that an

additional evidentiary hearing be held. Minn. Stat. § 268.105, subd. 2(d) (2008). “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.* We apply an abuse-of-discretion standard of review to a ULJ’s decision to deny an additional evidentiary hearing. *Skarhus v. Davanni’s Inc.*, 721 N.W.2d 340, 345 (Minn. App. 2006).

Mohamed contends that he had good cause for missing the telephonic hearing because his cellular telephone had a bad signal. The ULJ rejected Mohamed’s argument on the ground that, “[w]hen expecting an important call, a reasonable person acting with due diligence would make sure that his phone was fully charged and test it prior to the scheduled hearing time to make sure that it was working properly.” She further found that “Mohamed did not provide any information in his request for reconsideration to support a finding that he acted with due diligence to make sure that his phone was working or that he made any attempt to provide the Appeals Office with another phone number for the Judge to call.”

As the ULJ indicated, Mohamed’s reasons for not answering her telephone calls are conclusory. Both at the agency level and in this court, Mohamed provides only a very brief explanation, which we have fully captured in this opinion. He does not elaborate by providing information about where he was at the time of the telephonic hearing, whether his presence at that location was unexpected, why he could not have been in a location better suited for a cellular telephone, why he could not have been accessible via a wired telephone, or why he could not have contacted DEED to reschedule the hearing. In light

of an appealing party's duty to make himself or herself available for a telephonic hearing, and in light of the limited amount of information provided by Mohamed, the ULJ did not abuse her discretion by determining that Mohamed did not establish good cause for missing the hearing on his administrative appeal. *See Skarhus*, 721 N.W.2d at 345 (affirming denial of additional hearing where relator missed hearing because of work, did not say she had been denied leave from work, and did not attempt to reschedule); *Goodwin v. BPS Guard Servs., Inc.*, 524 N.W.2d 28, 30 (Minn. App. 1994) (same, under earlier version of statute).

Before concluding, we note that DEED's appellate brief states that persons pursuing administrative appeals are instructed to contact DEED "if they have not received a call within ten minutes of the hearing's scheduled start time." We have not considered this argument because there is nothing in the record of this case to indicate that Mohamed received such an instruction.

In his *pro se* brief, Mohamed also contends that he did not quit his job. Because the ULJ dismissed the administrative appeal, she did not consider the merits of Mohamed's argument. In light of our conclusion that the ULJ did not err by dismissing the administrative appeal, we also do not reach the merits of Mohamed's argument.

Affirmed.