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

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A09-1121**

Craig Molm,  
Relator,

vs.

Department of the Air Force,  
Respondent,

Department of Employment and Economic Development,  
Respondent.

**Filed February 9, 2010  
Affirmed  
Crippen, Judge\***

Department of Employment and Economic Development  
File No. 22032937-4

Craig L. Molm, Avon, Minnesota (pro se relator)

Department of the Air Force, 934th Air Wing Air Reserve Station, Minneapolis,  
Minnesota (respondent)

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

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

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

## UNPUBLISHED OPINION

**CRIPPEN**, Judge

Relator Craig Molm challenges the determination of the unemployment law judge (ULJ) that relator is ineligible to receive unemployment benefits because he receives payments from a pension fund contributed to by his employer. Because there is no error of law, we affirm.

### FACTS

Relator worked for the United States Air Force Reserve from 1978 until his mandatory retirement in December 2007. The Air Force contributed to his retirement pension, and he applied for pension payments when he retired. In his February 2008 application for unemployment benefits, he answered “No” to the question, “Have you applied for . . . payments from a pension fund contributed to by an employer?” Respondent Department of Employment and Economic Development (DEED) determined that relator was eligible for unemployment benefits in the amount of \$538 weekly.

In May 2008, relator began receiving pension payments of \$2,935 monthly, equal to \$677 weekly.<sup>1</sup> But he continued to report that he was not receiving pension payments in weekly requests for benefits. He testified that he first reported the pension payments to DEED in his February 2009 reapplication for benefits.

In March 2009, DEED sent relator a determination of ineligibility as of May 2008, when he began receiving pension payments. In April 2009, after relator appealed the

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<sup>1</sup> \$677 is 1/52 of \$35,220, which is 12 times \$2,935.

department decision, a ULJ conducted a telephone hearing and determined that relator had been overpaid \$22,493 (about 42 weeks of his \$538 benefit). This decision was affirmed in May 2009 in response to relator's request for reconsideration.

## DECISION

“Statutory interpretation is a question of law, which we review de novo.” *Abdi v. Dep’t of Employment & Econ. Dev.*, 749 N.W.2d 812, 815 (Minn. App. 2008). “It is an elemental canon of statutory construction that where a statute expressly provides a particular remedy or remedies, a court must be chary of reading others into it.” *Becker v. Mayo Foundation*, 737 N.W.2d 200, 207 (Minn. 2007) (quotation omitted).

Unemployment benefits are provided expressly and exclusively by statute; “[t]here is no equitable or common law denial or allowance of unemployment benefits.” Minn. Stat. § 268.069, subd. 3 (2008). The statutes explicitly deny unemployment benefits to recipients of payments from a pension to which their employer contributed.

An applicant is not eligible to receive unemployment benefits for any week with respect to which the applicant is receiving, has received, or has filed for payment, equal to or in excess of the applicant's weekly unemployment benefit amount, in the form of: . . . (3) pension, retirement, or annuity payments from any plan contributed to by a base period employer including the United States government . . . .<sup>2</sup>

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<sup>2</sup>The base period for an account established in February 2008 was October 1, 2006, to September 30, 2007. *See* Minn. Stat. § 268.035, subd. 4(1) (2008) (defining base period for applications effective between January 1 and March 31 as the prior October 1-September 30). The Air Force contributed to relator's pension during this period.

Minn. Stat. § 268.085, subd. 3(a) (2008). Relator's pension payment of \$677 weekly exceeded his unemployment benefit of \$538 weekly; therefore, he is not eligible for the unemployment benefit.

Relator argues that DEED was at fault in paying him benefits to which he was not entitled. This is an argument for equitable relief, which is prohibited under Minn. Stat. § 268.069, subd. 3. And, as the ULJ noted, “[DEED’s] failure to deduct [relator’s] pension payments . . . was, in part, due to [relator’s] failure to report his pending pension claim in his February 2008 application . . . .” Moreover, relator violated the statute by repeatedly failing to disclose in his continued requests that he was receiving pension payments. *See* Minn. Stat. § 268.086, subd. 2 (2008) (“A continued request . . . is a certification by the applicant, done on a weekly or biweekly basis . . . that the applicant is unemployed and meets the ongoing eligibility requirements under section 268.085”). Despite his repeated certification to the contrary, relator did not meet the eligibility requirement once he began receiving pension payments.

Relator also argues that DEED erred by delaying its determination that he is ineligible. But “[DEED] may issue a determination on an issue of ineligibility at any time within 24 months from the establishment of a benefit account . . . .” Minn. Stat. § 268.101, subd. 2(e) (2008). The ULJ correctly determined that, despite relator’s large overpayment, “the delay in this case . . . does not make [relator] eligible to receive unemployment benefits that he is otherwise ineligible to receive.”

**Affirmed.**