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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A09-1180**

Rubin Sika,
Relator,

vs.

Suzlon Rotor Corporation,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed March 2, 2010
Affirmed
Toussaint, Chief Judge**

Department of Employment and Economic Development
File No. 21865433-3

Rubin W. Sika, Austin, Minnesota (pro se relator)

Suzlon Rotor Corporation, Pipestone, 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; 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UNPUBLISHED OPINION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 Rubin Sika challenges the decision of the unemployment-law judge (ULJ) that his case was appropriately dismissed after he failed to participate in the telephone hearing. Because the ULJ correctly determined that relator had failed to exhaust his administrative remedies, we affirm the dismissal.

DECISION

On February 3, 2009, DEED notified relator that he was ineligible for unemployment benefits because he had been discharged for misconduct. Relator appealed, giving a phone number for the appeal hearing. He was notified on February 13, 2009, that a ULJ would conduct a telephone hearing at 10:45 a.m. on March 10 and “will contact you at the [number he provided]. If you would like the [ULJ] to call you at an alternative telephone number, log into your account . . . or contact the Appeals office.” The notice asked relator to “contact the Appeals office immediately” if he needed to reschedule the hearing.

It can be inferred that relator did give the appeals office an alternative number because the hearing transcript shows that, between 10:45 a.m. and 11:00 a.m. on March 10, the ULJ left three messages at another number, telling relator that the hearing would be held without him if he could not be reached.¹ The ULJ then issued an order stating that relator was considered to have failed to exhaust available administrative remedies by

¹ This same number appears in the heading of relator’s handwritten request for reconsideration.

not participating in the hearing. *See* Minn. Stat. § 268.105, subd. 1(d) (2008) (“by failing to participate, the appealing party is considered to have failed to exhaust available administrative remedies”). The order also told relator he could request reconsideration and establish that he had a good cause for his failure to participate. Relator requested reconsideration but did not offer any explanation for his failure to participate. The ULJ affirmed its earlier decision. Relator appealed to this court; his letter brief again gives no reason for his failure except that he “was in my friend phone.”

Even an individual who attempted to let the ULJ know why she could not participate in a hearing was found not to have shown good cause for failure to participate. *Skarhus v. Davanni’s Inc.*, 721 N.W.2d 340, 345 (Minn. App. 2006). Relator has not explained his failure to participate to the ULJ or this court. We agree with the ULJ’s conclusion that relator failed to exhaust his administrative remedies.

Affirmed.