

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DANA MARTIN,)	No. ED97877
)	
Appellant,)	Appeal from the Labor and
)	Industrial Relations Commission
vs.)	
)	
DIVISION OF EMPLOYMENT)	
SECURITY,)	
)	
Respondent.)	FILED: October 23, 2012

Appellant Dana Martin (“Martin”) appeals from the decision of the Labor and Industrial Relations Commission (“Commission”) concluding that she was ineligible for unemployment compensation because she had an outstanding balance on a fraud penalty that was assessed against her in 2007. On April 13, 2011, Section 288.040.9 was amended to provide ineligibility for waiting week credit or unemployment benefits for any week in which a claimant has an outstanding penalty that was assessed upon an overpayment of benefits. On April 20, 2011, Martin applied for unemployment compensation and was determined to be ineligible due to her outstanding fraud penalty balance. On appeal, Martin claims that the Commission erred in giving retrospective effect to amended Section 288.040.9, which introduced the eligibility requirement, and by not giving her notice of the penalty balance or notice that the statutory amendment made her ineligible for benefits while any portion of her penalty remained unpaid.

AFFIRMED.

Division Four holds: The record contains competent and substantial evidence to support the Commission’s decision. The Commission’s application of amended Section 288.040.9 to Martin’s claim was not unconstitutionally retrospective in that the amendment did not change the legal effect of the penalty from that which it had under the law when it was assessed, nor did it impair or take away any vested right. The record also contains sufficient evidence that Martin had notice of the existence and amount of the fraud penalty imposed by the Division of Employment Security. Whether due process required the Division of Employment Security to give Martin notice of the change in her eligibility for unemployment benefits due to the statutory amendment enacted after the assessment of her fraud penalty is an issue we do not reach on appeal because Martin failed to support her assertion with legal authority or argument beyond mere conclusory statements. Accordingly, we affirm.

Opinion by: Kurt S. Odenwald, J., Lawrence E. Mooney, P.J., and Patricia L. Cohen, J., Concur.

Attorney for Appellant: John J. Ammann

Attorney for Respondent: Ninion S. Riley

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