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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A13-0233**

Johan F. Pettersen, III,  
Relator,

vs.

Taylor Truck Line, Inc.,  
Respondent,

Department of Employment and Economic Development,  
Respondent.

**Filed August 19, 2013  
Affirmed  
Smith, Judge**

Department of Employment and Economic Development  
File No. 30308410-3

Johan F. Pettersen, III, Duluth, Minnesota (pro se relator)

Taylor Truck Line, Inc., Duluth, Minnesota (respondent)

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

Considered and decided by Smith, Presiding Judge; Chutich, Judge; and  
Toussaint, Judge.\*

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

## UNPUBLISHED OPINION

SMITH, Judge

We affirm the decision of the unemployment law judge (ULJ) to dismiss relator's administrative appeal because it was not filed within the 20-day appeal period.

### FACTS

Relator Johan F. Pettersen III quit his job as a truck driver during the week of September 30, 2012 for medical reasons and applied for unemployment benefits. The Minnesota Department of Employment and Economic Development (DEED) determined that Pettersen is ineligible for benefits because "[t]he evidence [DEED received] does not show that the applicant's condition made it medically necessary to quit." The determination of ineligibility included a "Right of Appeal" section, stating that "[t]his determination will become final unless an appeal is filed by Monday, November 19, 2012." It is undisputed that Pettersen did not file a formal appeal through DEED's online system until November 30.

On December 3, a ULJ summarily dismissed Pettersen's appeal. The ULJ determined that he had "no legal authority to hear and consider the appeal" due to its untimeliness. Pettersen timely filed a request for reconsideration, contending that he (1) had been in constant contact with DEED, (2) was attempting to gather the medical information DEED requested to verify his medical claims, and (3) had requested the proper paperwork from DEED on three occasions but never received it. Pettersen argued that "[w]hen I finally received the medical form the soonest appointment available was on November 24th." Pettersen alleged that it was DEED's delay in providing the

relevant forms that prevented him from timely appealing the determination of ineligibility and that “[no] one told me to appeal the decision to be on the safe side . . . I was following the advice of [DEED] and on the merit of these [facts] I’m asking for the reconsideration.”

On January 8, 2013, the ULJ affirmed the summary dismissal. The ULJ determined that, based on Minnesota Supreme Court precedent, “the statutory time periods [to file an appeal] are absolute, regardless of any mitigating circumstances.” This certiorari appeal followed.

### **DECISION**

A ULJ’s decision to dismiss an appeal as untimely is a question of law, which we review de novo. *Stassen v. Lone Mountain Truck Leasing, LLC*, 814 N.W.2d 25, 29 (Minn. App. 2012). If an applicant for unemployment benefits fails to appeal an ineligibility determination within 20 days after DEED sends its decision, the determination becomes final. Minn. Stat. § 268.101, subd. 2(f) (2012). When an untimely appeal of a determination of ineligibility is filed, Minnesota law mandates that a ULJ dismiss the appeal for lack of jurisdiction. *Kennedy v. Am. Paper Recycling Corp.*, 714 N.W.2d 738, 740 (Minn. App. 2006).

The parties agree that Pettersen failed to appeal the ineligibility determination within the 20-day statutory period, despite Pettersen receiving documentation informing him that the determination would become final unless he appealed within 20 days. Pettersen does not contend that the ULJ erred in his application of the law. He asserts,

however, that his reliance on DEED personnel constitutes mitigating circumstances that should permit an extension of the appeal deadline.

Despite Pettersen's plight, the deadline for appealing an ineligibility determination is absolute. *See Kennedy*, 714 N.W.2d at 739-40. Minnesota law permits no exceptions or extensions. *Id.* at 740. Minnesota courts have consistently held that statutory deadlines for appealing DEED determinations are strictly construed. *See Semanko v. Dep't of Employment Servs.*, 309 Minn. 425, 430, 244 N.W.2d 663, 666 (1976) (upholding dismissal of appeal filed one day after applicable appeal period expired and stating that statutory time period for appeal was "absolute and unambiguous"); *King v. Univ. of Minn.*, 387 N.W.2d 675, 677 (Minn. App. 1986) (depriving this court of jurisdiction where appeal was untimely and stating that "the time for appeal from decisions of all levels of [DEED] should be strictly construed, regardless of mitigating circumstances"), *review denied* (Minn. Aug. 13, 1986). Although we recognize that mitigating circumstances may exist in this situation, the time period for appealing a determination of ineligibility is jurisdictional, and therefore, any untimely appeal requires dismissal. *See Kennedy*, 714 N.W.2d at 740 (stating that when "an appeal from [an ineligibility] determination is untimely, it must be dismissed for lack of jurisdiction"). Therefore, Minnesota law does not provide Pettersen relief regardless of his asserted mitigating circumstances. Because Pettersen failed to appeal within the statutory period, the ULJ correctly dismissed his administrative appeal.

We again emphasize the extent of the appellate court's authority. Subject-matter jurisdiction is the authority that a court has to act and rule on cases. *Black's Law*

*Dictionary* 931 (9th ed. 2009). Jurisdiction in cases involving DEED derives from legislative action. *See generally* Minn. Stat. § 268.105 (2012). It is not the role of the court of appeals to alter, extend, or modify the existing law. *See Tereault v. Palmer*, 413 N.W.2d 283, 286 (Minn. App. 1987) (stating that “the task of extending existing law falls to the supreme court or the legislature, but it does not fall to this court”), *review denied* (Minn. Dec. 18, 1987). Under current legislative language, the failure to appeal within the provided statutory timeframe results in this court not having the authority to act. The lack of jurisdiction is fatal to Pettersen’s appeal.

**Affirmed.**