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

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A13-0787**

James Pederson,  
Relator,

vs.

Ecumen,  
Respondent,

Department of Employment and Economic Development,  
Respondent.

**Filed February 18, 2014  
Affirmed  
Kirk, Judge**

Department of Employment and Economic Development  
File Nos. 30185935-3, 30128941-3

James Pederson, Duluth, Minnesota (pro se relator)

Ecumen, St. Paul, Minnesota (respondent)

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

Considered and decided by Smith, Presiding Judge; Johnson, Judge; and Kirk,  
Judge.

## UNPUBLISHED OPINION

**KIRK**, Judge

We affirm the unemployment law judges' (ULJs') decisions to dismiss relator's administrative appeals because they were not filed within the statutory 20-day appeal period.

### FACTS

This certiorari appeal consolidates two decisions from the Minnesota Department of Employment and Economic Development (DEED) regarding relator James Pederson's eligibility for unemployment benefits. On June 16, 2012, Pederson took a leave of absence from his job as a medical assistant and transcriptionist at Ecumen, a senior housing company in Duluth, to seek medical testing for a learning disability after he received a final warning from his employer about his poor work performance. On August 3, 2012, Pederson underwent heart surgery and was unable to perform any work for three weeks while he recuperated. On August 17, 2012, Ecumen sent Pederson a letter stating that as of July 19, 2012, he only qualified for a two-week leave of absence, and it was reposting his position because he had failed to return to work in a timely fashion. Pederson applied for unemployment benefits.

On September 7, 2012, DEED determined Pederson was ineligible for unemployment benefits because he had been discharged for misconduct. The letter stated that Pederson's determination of ineligibility would become final unless he filed an appeal by September 27, 2012. On January 17, 2013, Pederson appealed DEED's September 7 determination. The ULJ issued an order on February 25, 2013, denying

Pederson's appeal because it did not have the legal authority to hear and consider a late appeal.

On September 19, 2012, DEED determined Pederson was not eligible for unemployment benefits because he had not demonstrated that he was actively searching for gainful employment that was consistent with his medical restrictions or qualifications under Minn. Stat. § 268.085 (2012). The letter stated Pederson had until October 9, 2012, to challenge this determination. Pederson filed a timely appeal.

On October 15, 2012, a ULJ upheld DEED's September 19 determination that Pederson was ineligible for benefits, ruling that he had not been available for or actively seeking employment since August 19, 2012. The ULJ stated that the decision would become final unless Pederson filed a request for reconsideration on or before November 5, 2012.

On February 27, 2013, Pederson filed a request for reconsideration of both the February 25, 2013 and October 15, 2012 decisions. Pederson explained that his appeals were late because he wanted to complete a psychological evaluation in order to document his learning disability. Pederson argued that the evaluation proved that his work performance at Ecumen was negatively impacted by his learning disability, and he should not have been fired for misconduct. Pederson affirmed that he was seeking new positions at hospitals in the area through a vocational rehabilitation program at Minnesota Work Force. In support of his request for reconsideration, Pederson mailed a copy of a psychological examination documenting his diagnoses of a learning and anxiety disorder.

The ULJs affirmed their respective decisions on both issues on April 4-5, 2013, reiterating that they had no legal authority to reconsider decisions that were final under Minn. Stat. § 268.105, subs. 1, 2 (2012).

Pederson filed a certiorari appeal of the adverse decisions by the ULJs.

## D E C I S I O N

“When reviewing a ULJ’s decision, we may affirm the decision, remand for further proceedings, or reverse or modify the decision if the substantial rights of the relator have been prejudiced.” *Stassen v. Lone Mountain Truck Leasing, LLC*, 814 N.W.2d 25, 29 (Minn. App. 2012) (citing Minn. Stat. § 268.105, subd. 7(d) (2010)). This court will not disturb the ULJ’s factual findings when the evidence substantially supports them. Minn. Stat. § 268.105, subd. 7(d)(5) (2012).

“An agency decision to dismiss an appeal as untimely is a question of law, which we review de novo.” *Kennedy v. Am. Paper Recycling Corp.*, 714 N.W.2d 738, 739 (Minn. App. 2006). “A . . . determination of ineligibility is final unless an appeal is filed by the applicant . . . within 20 calendar days after sending.” Minn. Stat. § 268.101, subd. 2(f) (2012). The appeal deadline is “absolute and unambiguous,” and a ULJ must dismiss an untimely appeal from an eligibility determination for lack of jurisdiction. *Kennedy*, 714 N.W.2d at 739-40; *Kangas v. Indus. Welders & Machinists, Inc.*, 814 N.W.2d 97, 100 (Minn. App. 2012). “An untimely appeal from a determination must be dismissed for lack of jurisdiction.” *Stassen*, 814 N.W.2d at 29.

Pederson admits that his appeals were untimely but asserts that they were late because he wanted to secure a psychological examination documenting his learning

disability. Pederson argues in his defense that his psychological diagnosis demonstrates that he could not be fired for misconduct because he suffers from a learning disability that made it difficult for him to sustain the expected pace of work at his job. Pederson requests that this court reinvestigate his claims now that “the full picture of this situation can be understood.”

While it is true Pederson has recently dealt with a number of challenging circumstances, this court cannot revisit the merits of his case because there is no exception to the 20-day appeal deadline. *See Semanko v. Dep’t of Emp’t Servs.*, 309 Minn. 425, 430, 244 N.W.2d 663, 666 (1976) (holding unemployment compensation claimant was not entitled to a hearing where he might show a compelling good cause because his appeal from a determination that he was ineligible for benefits was untimely). There are no statutory provisions for extensions or exceptions to the appeal period. *Johnson v. Metro. Med. Ctr.*, 395 N.W.2d 380, 382 (Minn. App. 1986). “When an appeal from a disqualification determination [for unemployment benefits] is untimely, it must be dismissed for lack of jurisdiction.” *Kennedy*, 714 N.W.2d at 740. Because DEED’s September 7, 2012 determination and the ULJ’s October 15, 2012 decision became final once Pederson failed to appeal within the 20-day window, the ULJs properly dismissed both of these claims for lack of jurisdiction. Here, the evidence substantially supports the ULJs’ findings that they did not have the authority to act on Pederson’s requests for reconsideration.

**Affirmed.**