

This opinion will be unpublished and may not be cited except as provided by Minn. Stat. § 480A.08, subd. 3 (2018).

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0995**

In the Matter of: Mohamed Abdirahman.

**Filed April 6, 2020
Affirmed
Reyes, Judge**

Department of Employment and Economic Development
File No. 37326435-2

Mohamed Bishar Abdirahman, St. Paul, Minnesota (pro se relator)

Katherine Conlin, Minnesota Department of Employment and Economic Development, St. Paul, Minnesota (for respondent department)

Considered and decided by Reyes, Presiding Judge; Bratvold, Judge; and Bryan, Judge.

UNPUBLISHED OPINION

REYES, Judge

Pro se relator challenges an unemployment-law judge's (ULJ) determination that relator filed an untimely 2019 appeal of a 2013 notice of revenue recapture. We affirm.

FACTS

Relator Mohamed Abdirahman worked for Jennie-O Turkey Store Inc. from August 2010 to May 2012. In May 2012, he injured his hand on the job, preventing him from continuing to work. Soon after his injury, relator applied for and began receiving unemployment benefits, which continued until April 2013. In April 2013, the Minnesota

Department of Employment and Economic Development (DEED) notified relator of two unemployment-eligibility issues, either of which would disqualify him from receiving unemployment compensation.

First, a ULJ conducted an evidentiary hearing and issued an amended decision on May 1, 2013, determining that relator had been ineligible to receive unemployment benefits because he received workers' compensation benefits, resulting in a \$2,700 overpayment on relator's account. The ULJ's decision stated that it would become final unless relator filed a request for reconsideration within 20 days, by May 21, 2013. Relator submitted documents to the ULJ within the May 21 deadline in an apparent attempt to request reconsideration of the ULJ's May 1, 2013 ineligibility decision. However, the ULJ concluded that his submission did not challenge the May 1, 2013 decision and that, as a result, relator did not timely request reconsideration.¹ On August 23, 2013, relator filed a request to reconsider the May 1, 2013 ineligibility decision, but a ULJ, relying on Minn. Stat. § 268.105, subd. 2 (2018), dismissed this appeal as untimely for missing the 20-day May 21, 2013 deadline for requesting reconsideration. *See* Minn. Stat. § 268.105, subd. 2(a), (f)(3) (requiring ULJs to dismiss late requests for consideration).

Second, on May 17, 2013, DEED issued an amended decision of relator's unemployment-benefits ineligibility dating back to May 2012, because relator had not shown that he was looking for work while receiving unemployment benefits. Relator again

¹ The ULJ determined that relator's appeal consisted of challenging whether he was available for suitable employment but failed to argue the issue of workers' compensation.

filed a late appeal, which the ULJ dismissed. This determination resulted in a \$9,849 overpayment on relator's account.

On June 3, 2013, DEED sent relator a notice of revenue recapture, notifying him of a right to appeal within 45 days. On April 12, 2019, relator appealed DEED's notice of revenue recapture, but a ULJ dismissed the appeal as untimely for missing the 45-day deadline. Relator filed a request to reconsider the ULJ's determination of his unemployment ineligibility, and a ULJ affirmed the previous order dismissing relator's case, again citing the missed appeal deadline. This certiorari appeal follows.

D E C I S I O N

I. The ULJ did not err by dismissing relator's 2019 appeal as untimely under Minn. Stat. § 268.105, subd. 2 (2018).

Relator argues that the ULJ's decision "was not fair and equitable" and that he should not have to repay the unemployment compensation that he received. Relator does not clearly state what he is appealing, although it appears that he intends to appeal the June 3, 2013 notice of revenue recapture. Relator's argument is misguided.

The only issue that is properly before us in an appeal from a decision dismissing a request for reconsideration as untimely is whether a relator filed a timely request for reconsideration. *See Christgau v. Fine*, 27 N.W.2d 193, 199 (Minn. 1947). 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 a relator misses the deadline to appeal by just one day, we have held that "[t]here is no provision for extension or exceptions." *Cole v. Holiday Inns, Inc.*, 347 N.W.2d 72,

73 (Minn. App. 1984); *see also Kennedy v. Am. Paper Recycling Corp.*, 714 N.W.2d 738, 739 (Minn. App. 2006). Even if a language barrier hampered relator's comprehension of the unemployment-benefit-appeal process, we have declined to consider mitigating circumstances because the statutory deadline is unambiguous. *See, e.g., Smith v. Masterson Pers., Inc.*, 483 N.W.2d 111, 112 (Minn. App. 1992).

Relator does not contest the fact that he failed to file an appropriate request for reconsideration of the June 3, 2013 notice of revenue recapture within the 45-day deadline. Instead, he argues the merits. But his opportunity to argue the merits expired on July 18, 2013. *See* Minn. Stat. § 270A.08, subd. 2(b) (2018). As such, the ULJ did not err by dismissing his appeal as untimely.

Finally, we note that, because six years have passed since DEED determined that relator's account received an overpayment, relator's debt has expired and he does not have to repay it. *See* Minn. Stat. § 268.18, subd. 4(a) (2018).

Affirmed.