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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1581**

Sandra Anderson,
Relator,

vs.

Northwest Airlines, Inc.,
Respondent,

Department of Employment
and Economic Development,
Respondent.

**Filed March 29, 2011
Affirmed
Hudson, Judge**

Department of Employment
and Economic Development,
File No. 22391129-3

Sandra Anderson, Prescott, Arizona (pro se relator)

Northwest Airlines, Inc., St. Louis, Missouri (respondent)

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

Considered and decided by Toussaint, Presiding Judge; Peterson, Judge; and
Hudson, Judge.

UNPUBLISHED OPINION

HUDSON, Judge

Relator challenges the unemployment-law judge's dismissal of her unemployment-compensation appeal as untimely, arguing that she did not timely file an appeal because she was unaware that she could receive benefits after her severance period ended. Because there are no exceptions to the statutory time period for appealing a denial of unemployment-compensation benefits, we affirm.

FACTS

Relator Sandra K. Anderson retired from her position with Northwest Airlines in 2009 as a result of Northwest's merger with Delta Airlines. Anderson, who was informed that her job was being eliminated as a result of the merger, accepted pension benefits and filed for unemployment benefits in April 2009. Because she was one of the first employees to have her job eliminated, her employer did not give her guidance on her eligibility for unemployment-compensation benefits, other than to tell her that the employer would not contest her receipt of benefits.

On April 27, 2009, the Minnesota Department of Employment and Economic Development (DEED) sent Anderson a notice of ineligibility, which stated that she was ineligible for benefits because she had voluntarily retired and that, to requalify for benefits, she would need to work after April 3, 2009, and earn at least eight times her weekly benefit amount. The notice stated that the determination would become final unless she filed an appeal by May 18, 2009. Anderson called the DEED office and was informed that she would be ineligible to receive benefits after her 34-week severance

period ended. She therefore did not appeal the determination of ineligibility within the required time period.

In March 2010, Anderson spoke to other former Northwest employees who informed her that, contrary to her former understanding, she would be eligible to receive benefits after her severance period ended. Therefore, on April 16, 2010, she filed an appeal of the April 2009 determination of ineligibility. The unemployment-law judge (ULJ) dismissed the appeal as untimely, and her request for reconsideration was denied.

D E C I S I O N

If an applicant for unemployment-compensation benefits does not appeal a determination of benefit ineligibility within 20 days after DEED sends it, the determination becomes final. Minn. Stat. § 268.101, subd. 2(f) (2010). “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).

Anderson acknowledges that she failed to timely appeal the determination of her ineligibility for benefits, but she argues that she should be excused from strict compliance with the statutory appeal period because DEED misinformed her that she would be ineligible for benefits after her severance period ended. There are no exceptions to the statutory time period for appeal. *Cole v. Holiday Inns, Inc.*, 347 N.W.2d 72, 73 (Minn. App. 1984). “The time limitation provided in [the unemployment-insurance statute] is absolute and unambiguous.” *Semanko v. Dep’t of Emp’t Servs.*, 309 Minn. 425, 430, 244 N.W.2d 663, 666 (1976) (discussing then-applicable appeal period). The time limit for

appealing a determination of ineligibility for unemployment-compensation benefits is jurisdictional. *See Kennedy*, 714 N.W.2d at 740 (stating that “[w]hen an appeal from [an ineligibility] determination is untimely, it must be dismissed for lack of jurisdiction”). Therefore, regardless of any alleged mitigating circumstances, untimely appeals must be dismissed. *See, e.g., Hart-Wilke v. Aetna Life Ins.*, 550 N.W.2d 310, 313–14 (Minn. App. 1996) (concluding that claim that overpayment determination was mailed to relator’s old address was not a defense to untimely appeal of that determination).

We recognize that there are mitigating circumstances here, in that Anderson was unaware of her eligibility for benefits after her severance period ended. Anderson argues that she would have timely contested her ineligibility if she had not received erroneous information from DEED. The record is unclear as to the exact information she received from a DEED representative. But, unfortunately, even if we were to accept her version of events, we could not award her benefits because mitigating circumstances do not provide an exception to the rule that untimely appeals must be dismissed. We also note that Minnesota law expressly prohibits the equitable award of unemployment-compensation benefits. *See Minn. Stat. § 268.069, subd. 3* (2010) (stating that “[t]here is no equitable or common law denial or allowance of unemployment benefits”).

Anderson received a notice stating that if she did not appeal the determination of ineligibility by May 18, 2009, it would become final. *See Minn. Stat. § 268.101, subd. 2(f)* (stating that DEED’s determination “must contain a prominent statement indicating the consequences of not appealing”). Because Anderson failed to file an

appeal by that date, the determination became final, and the ULJ correctly dismissed her appeal for lack of jurisdiction.

Affirmed.