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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-2199**

Suvra Chakraborty,
Relator,

vs.

Ebenezer Society,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed June 27, 2011
Affirmed
Muehlberg, Judge***

Department of Employment and Economic Development
File No. 25107214-3

Suvra Chakraborty, Farmington, Minnesota (pro se relator)

Ebenezer Society, Minnesota, Minneapolis (respondent)

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

Considered and decided by Johnson, Chief Judge; Worke, Judge; and Muehlberg,
Judge.

* 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UNPUBLISHED OPINION

MUEHLBERG, Judge

In this certiorari appeal, relator challenges the decision by the unemployment-law judge (ULJ) to dismiss her administrative appeal from the determination of ineligibility for unemployment benefits as untimely. Relator argues that her failure to file a timely appeal was an honest mistake. We affirm.

FACTS

Relator Suvra Chakraborty lost her job and applied for unemployment benefits from the Minnesota Department of Employment and Economic Development (DEED). On May 5, 2010, DEED issued a determination of ineligibility to relator because she had been discharged for employment misconduct based on intentional or negligent unsatisfactory work performance. DEED also told relator that this determination would become final unless she filed an appeal by Tuesday, May 25, 2010.

Relator did not file her appeal until August 4, 2010, and the ULJ dismissed her appeal as untimely on August 9, 2010. Relator requested reconsideration, but did not dispute that her appeal was untimely. The ULJ affirmed, stating that because relator had not filed a timely appeal, the ineligibility determination was final and he had no legal authority to address the case on its merits. Relator then filed this certiorari appeal.

DECISION

This court reviews a ULJ's decision to determine whether a relator's substantial rights have been prejudiced by unlawful procedure or an error of law. Minn. Stat. § 268.105, subd. 7(d) (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).

“A determination of eligibility or 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) (2010). This time limitation “is absolute and unambiguous.” *Semanko v. Dep’t of Emp’t Servs.*, 309 Minn. 425, 430, 244 N.W.2d 663, 666 (1976). “In numerous instances, the courts in this jurisdiction have held that statutes designating the time for appeal from decisions of all levels of the Department should be strictly construed, regardless of mitigating circumstances.” *King v. Univ. of Minn.*, 387 N.W.2d 675, 677 (Minn. App. 1986), *review denied* (Minn. Aug. 13, 1986). “An untimely appeal must be dismissed . . . for lack of jurisdiction.” *Cole v. Holiday Inns, Inc.*, 347 N.W.2d 72, 73 (Minn. App. 1984).

Although relator has not disputed that her appeal to the ULJ was late, she explains that she did not appeal on time because she was getting interviews and still thought that she might get a job. When nothing worked out, she appealed, and her failure to do so on time was an honest mistake. Unfortunately, the ineligibility determination became final when relator did not file a timely appeal, the ULJ had no choice but to dismiss it for lack of jurisdiction, and we must affirm the dismissal.

Affirmed.