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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0352**

Ahmed Mohamed Abdi,
Relator,

vs.

Midway Ford Company,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed October 28, 2013
Affirmed
Rodenberg, Judge**

Department of Employment and Economic Development
File No. 30266283-3

Ahmed Mohamed Abdi, Coon Rapids, Minnesota (pro se relator)

Midway Ford Company, St. Paul, Minnesota (pro se respondent)

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

Considered and decided by Larkin, Presiding Judge; Rodenberg, Judge; and
Chutich, Judge.

UNPUBLISHED OPINION

RODENBERG, Judge

Relator appeals an unemployment law judge's order affirming the dismissal of relator's administrative appeal as untimely. We affirm.

FACTS

Relator Ahmed Mohamed Abdi was injured in a car accident on August 11, 2012 and, shortly thereafter, ceased working at Midway Ford. Relator established an unemployment-benefits account with the Minnesota Department of Employment and Economic Development (DEED) on October 1, 2012. On October 16, DEED issued a determination of ineligibility because relator was receiving workers' compensation benefits and was therefore ineligible for unemployment benefits. Relator timely appealed that decision and an unemployment law judge (ULJ) eventually issued a determination of eligibility for unemployment benefits with a specified deduction for the amount of workers' compensation that relator had received.

On November 6, DEED issued a separate determination of ineligibility for unemployment benefits because relator had quit employment for medical reasons. DEED determined that there was no evidence that relator's "condition made it medically necessary to quit." The determination letter specifically stated that "[t]his determination will become final unless an appeal is filed by Monday, November 26, 2012."

Relator filed an appeal online on December 10. On December 11, a ULJ issued an order dismissing relator's appeal as untimely. The ULJ found that the determination of ineligibility sent by DEED to relator "clearly stated that it would be **final** unless an

appeal was filed within 20 calendar days from the date of mailing” and that relator’s appeal, filed on December 10, “was not filed within the time period required by law.”

On December 27, relator requested reconsideration. Relator stated that “the only reason that I did not file within 20 days was I thought my attorney Boris Gorstein was working for my case at the time that he filed for me, that is why I appealed again because he did not respond within the original 20-day period.” On February 8, 2013, the ULJ issued an order affirming the dismissal of relator’s appeal. The ULJ stated that relator failed to make a timely appeal and “[t]here are no exceptions to the 20-day appeal period.” This certiorari appeal followed.

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)). A decision to dismiss an appeal as untimely raises a question of law, which we review de novo. *Kennedy v. Am. Paper Recycling Corp.*, 714 N.W.2d 738, 739 (Minn. App. 2006). We will not disturb a ULJ’s factual findings when the evidence substantially sustains them. Minn. Stat. § 268.105, subd. 7(d)(5) (2012).

“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 statutory appeal period of ULJ decisions is “strictly construed against the relator.” *Rowe v. Dep’t of Emp’t & Econ. Dev.*, 704 N.W.2d 191, 196 (Minn. App.

2005). “An untimely appeal from a determination must be dismissed for lack of jurisdiction.” *Stassen*, 814 N.W.2d at 29.

Relator argues that this court should reverse the ULJ’s decision despite his having missed the appeal deadline because the initial ineligibility determination was erroneous. Relator argues that he did not quit and his employer admitted that it fired him. Relator also argues that he could return to work with certain medical restrictions but that his employer refused to accommodate such restrictions. But because relator’s appeal was dismissed as untimely, whether the initial determination was erroneous is not at issue in this appeal. *Christgau v. Fine*, 223 Minn. 452, 463-64, 27 N.W.2d 193, 199 (1947) (providing that when a ULJ concludes that he lacks jurisdiction to consider an appeal, the only question before this court is whether the ULJ’s decision was correct in that respect).

Relator’s appeal was untimely. The determination of ineligibility sent to relator by DEED clearly identified the date by which an appeal was required to be filed. There are simply no exceptions to the 20-day appeal deadline. *See Kangas v. Indus. Welders & Machinists, Inc.*, 814 N.W.2d 97, 100 (Minn. App. 2012) (emphasizing that the “20-day [appeal] deadline is absolute and unambiguous” (quotation omitted)); *Kennedy*, 714 N.W.2d at 738–40 (concluding that because “there are no statutory provisions for extensions or exceptions to the appeal period,” an appeal filed one day late was untimely and properly dismissed); *King v. Univ. of Minn.*, 387 N.W.2d 675, 677 (Minn. App. 1986) (stating that “statutes designating 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); *see also* Minn. Stat. §§ 268.101, subd. 2(f) (including no

exceptions to the 20-day deadline), .069, subd. 3 (stating that “[t]here is no equitable or common law denial or allowance of unemployment benefits”) (2012).

Although relator may well have thought that an attorney was going to file a timely appeal on his behalf, that belief does not excuse noncompliance with the 20-day deadline. The ULJ properly dismissed relator’s untimely request for reconsideration.

Affirmed.