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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1704**

Tasha Cooley,
Relator,

vs.

Minnesota School of Business, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed August 1, 2011
Affirmed
Ross, Judge**

Department of Employment and Economic Development
File No. 21663643-3

Tasha Cooley, Maple Grove, Minnesota (pro se relator)

Minnesota School of Business, Inc., Woodbury, Minnesota (respondent employer)

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

Considered and decided by Ross, Presiding Judge; Stoneburner, 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UNPUBLISHED OPINION

ROSS, Judge

Tasha Cooley challenges an unemployment-law judge's (ULJ) dismissal of her unemployment-compensation appeal as untimely. She argues that although she did not timely appeal her 2009 determination of ineligibility, her administrative appeal should have been accepted because someone working in the Minnesota Department of Employment and Economic Development told her she still had time to appeal. She also maintains that the ULJ was rude and biased. Because her appeal is untimely, and because the record lacks evidence that the ULJ was prejudicially rude or biased, we affirm.

FACTS

In 2008, Tasha Cooley applied for unemployment benefits. On May 5, 2009, the Minnesota Department of Employment and Economic Development (DEED) sent Cooley a determination of ineligibility, finding a \$600 overpayment to her. The notice stated that if Cooley did not appeal the determination by May 26, 2009, it would become final. She appealed almost one year after that deadline, on May 24, 2010. At her June 2010 hearing, she said she did not appeal in 2009 because she had not paid attention to the determination letter. The ULJ dismissed her appeal. On reconsideration, Cooley claimed that a department representative told her that she "still had a couple of days to file the appeal." The ULJ affirmed. Cooley appeals by certiorari.

DECISION

Cooley argues that her appeal should not have been dismissed. We review a ULJ decision to determine whether a relator's substantial rights have been prejudiced by

unlawful procedure, error of law, findings not supported by substantial evidence, or a decision that is arbitrary and capricious. Minn. Stat. § 268.105, subd. 7(d)(3)–(6) (2008). A determination of ineligibility for unemployment benefits is final “unless an appeal is filed by the applicant . . . within 20 calendar days” after the determination is mailed. Minn. Stat. § 268.101, subd. 2(f) (Supp. 2009). A ULJ lacks jurisdiction over and must dismiss an untimely appeal from an ineligibility determination. *Kennedy v. Am. Paper Recycling Corp.*, 714 N.W.2d 738, 740 (Minn. App. 2006). We review de novo a ULJ’s decision to dismiss an untimely appeal. *Id.* at 739.

Cooley acknowledges that she failed to timely appeal the ineligibility determination, but she maintains that her untimeliness should be excused because DEED misinformed her about her deadline. Cooley’s argument cannot surpass one legal and one factual obstacle.

The legal obstacle is that the statute, not DEED employees, determines the deadline for appeals. So despite Cooley’s allegation that a DEED employee told her by telephone that she had two days yet to appeal, DEED is restricted by law to follow a specific process for determinations of ineligibility and appeal. *See* Minn. Stat. §§ 268.101, subd. 2(f), .105 (2008 & Supp. 2009). There are no exceptions to the statutory time period for appeal. *Semanko v. Dep’t of Emp’t Servs.*, 309 Minn. 425, 430, 244 N.W.2d 663, 666 (1976). Comments allegedly made by a DEED employee during a telephone inquiry have no bearing on the deadline imposed by law.

The factual obstacle is that at the time the DEED employee allegedly misinformed Cooley about her appeal deadline, Cooley was already beyond the deadline and therefore

already too late to appeal. So she cannot claim that the misinformation caused her to miss the deadline. The alleged misinformation had no bearing on the untimeliness of Cooley's appeal.

Cooley also argues that she was denied a fair hearing because the ULJ was rude and biased, evidenced by his reluctance to hear her testimony. She claims primarily that he "badger[ed]" her about the date she filed her appeal, "which was irrelevant to [her]." The date may have been irrelevant to Cooley, but it was not irrelevant to the ULJ. The appeal's timeliness was the only relevant issue, and the ULJ reasonably and, it appears from the transcript, politely and professionally, attempted to focus on those facts necessary to decide it. The record does not suggest rudeness or bias, but appropriate control of the proceeding. *See* Minn. R. 3310.2921 (2009) ("The judge may limit repetitious testimony and arguments.")

Cooley also argues the merits of her case, which we do not reach because our jurisdictional holding arising from untimeliness resolves the appeal.

Affirmed.