



In the Missouri Court of Appeals Eastern District

DIVISION ONE

CHRYSTAL JONES,)	No. ED94962
)	
Claimant/Appellant,)	
)	
vs.)	Appeal from the Labor and
)	Industrial Relations Commission
WIRELESS VISION, LLC, and DIVISION)	
OF EMPLOYMENT SECURITY,)	
)	OPINION FILED: August 3, 2010
Respondents.)	

Chrystal Jones (Claimant) appeals the Labor and Industrial Relations Commission's (Commission) decision denying her application for unemployment benefits. We dismiss the appeal.

A deputy of the Division of Employment Security (Division) concluded that Claimant was ineligible for unemployment benefits. Claimant appealed to the Appeals Tribunal, which reversed the deputy's conclusion. Claimant's employer then filed an application for review with the Commission, which issued an order reversing the Appeals Tribunal's decision and concluding Claimant was ineligible for benefits. Claimant has now filed a notice of appeal to this Court. The Division has filed a motion to dismiss Claimant's appeal, asserting it is untimely. Claimant has not filed a response to the motion.

Section 288.210, RSMo 2000, requires that a claimant file a notice of appeal to this Court from the Commission's decision within twenty days of the decision becoming final. The

Commission's decision becomes final ten days after it is mailed to the parties. Section 288.200.2, RSMo 2000. Here, the Commission mailed its decision to Claimant on April 21, 2010. Therefore, the notice of appeal to this Court was due on or before May 21, 2010. Sections 288.200.2, 288.210.

Claimant mailed her notice of appeal to the Commission. Under section 288.240, RSMo 2000, a notice of appeal that is mailed to the Commission is "deemed to be filed as of the date endorsed by the United States post office on the envelope. . . ." Here the date endorsed by the United States post office was May 29, 2010. As a result, Claimant's notice of appeal is untimely under section 288.200.

Unemployment benefits are solely a creature of statutory provision. Martinez v. Lea-Ed, Inc., 155 S.W.3d 809, 810 (Mo. App. E.D. 2005). The unemployment statutes do not provide for the late filing of the notice of appeal and do not recognize any exceptions for filing out of time. McCuin Phillips v. Clean-Tech, 34 S.W.3d 854, 855 (Mo. App. E.D.2000).

The Division's motion to dismiss is granted. The appeal is dismissed.

ROY L. RICHTER, CHIEF JUDGE

KURT S. ODENWALD, J. and
GARY M. GAERTNER, JR., J., concur