



In the Missouri Court of Appeals Eastern District

DIVISION ONE

STAN MURRAY,)	No. ED95480
)	
Claimant/Appellant,)	
)	
vs.)	Appeal from the Labor and
)	Industrial Relations Commission
MIDWEST MORTGAGE CAPITAL, LLC,)	
and DIVISION OF EMPLOYMENT SECURITY,)	
)	FILED: November 9, 2010
Respondents.)	

Stan Murray (Claimant) appeals the Labor and Industrial Relations Commission's (Commission) decision denying his 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, because he was employed while filing claims for benefits. In a related case, a deputy further determined that Claimant had been overpaid benefits in the amount of \$3,586.32. Claimant appealed both of these determinations to the Appeals Tribunal, which affirmed. Claimant then filed an application for review with the Commission, which issued an order affirming the Appeals Tribunal's decisions in these two matters. Claimant has now filed a notice of appeal to this Court from both decisions. The Division has filed a motion to dismiss Claimant's appeal, asserting it is untimely. Claimant has not filed a response to the motion.

The right of appeal is purely statutory and where statutes do not give such a right, no appeal exists. Labrier v. Anheuser Ford, Inc., 621 S.W.2d 51, 53 (Mo. banc 1981). Section 288.210, RSMo 2000, requires that an appealing party's notice of appeal be filed with the Commission within twenty days after the decision of the Commission becomes final. The decision of the Commission becomes final ten days after the date of mailing of the decision to the parties. Section 288.200.2, RSMo 2000.

Here, the Commission mailed its decisions in both matters to Claimant on August 10, 2010. Therefore, the notice of appeal to this Court was due on or before September 9, 2010. Sections 288.200.2, 288.210. Claimant faxed his notice of appeal to the Commission on September 10, 2010. As a result, Claimant's notice of appeal is untimely under section 288.200. 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). Therefore, our only recourse is to dismiss the appeal.

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