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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0621**

In the Matter of:

Tracy Toulouse,
Relator,

vs.

Department of Employment and Economic Development,
Respondent.

**Filed October 21, 2019
Affirmed
Rodenberg, Judge**

Department of Employment and Economic Security
File No. 36143453-3

Tracy Toulouse, Minnetonka, Minnesota (pro se relator)

Anne B. Froelich, Department of Employment and Economic Security, St. Paul, Minnesota
(for respondent department)

Considered and decided by Rodenberg, Presiding Judge; Larkin, Judge; and
Stauber, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

RODENBERG, Judge

In this certiorari appeal, relator Tracy Toulouse challenges the decision of an unemployment-law judge (ULJ) dismissing her unemployment-benefits appeal as untimely. We affirm.

FACTS

Relator applied for unemployment benefits with respondent Department of Employment and Economic Development (DEED). DEED mailed a determination of ineligibility to relator on December 26, 2017, informing her that she was ineligible to receive unemployment benefits. The letter further indicated that the ineligibility determination “will become final unless an appeal is filed by Tuesday, January 16, 2018.”

On March 5, 2019, nearly 14 months after the statutory deadline, relator submitted her appeal to DEED. She provided no indication that she made any earlier appeal attempt, stating only that, at the time the appeal was due in January 2018, she “was experiencing an unexpected family crisis while working, and caring for [her] daughter.”

A ULJ dismissed the March 5, 2019 appeal as untimely, concluded that the determination of ineligibility was final, and concluded that the ULJ did not have jurisdiction to issue a decision on the merits. Relator requested that the ULJ’s decision be reconsidered. She stated that, although she had not changed addresses, she did not receive the determination of ineligibility in the mail because of issues with her mail carrier. The ULJ affirmed the earlier decision.

This appeal followed.

DECISION

Relator argues that the ULJ erred in dismissing her March 5, 2019 appeal. She asserts that she did not receive actual notice of the determination of ineligibility and that she had “good cause” for not filing a timely appeal. Although relator challenges the underlying determination of ineligibility, when a ULJ dismisses an appeal as untimely, the only question before this court is whether the ULJ erred in dismissing the appeal. *Christgau v. Fine*, 27 N.W.2d 193, 199 (Minn. 1947).

The timeliness of an appeal is a question of law, which we review de novo. *Stassen v. Lone Mountain Truck Leasing, LLC*, 814 N.W.2d 25, 29 (Minn. App. 2012). When reviewing a ULJ’s findings of fact, we refrain from disturbing those factual findings when the evidence substantially sustains them. *Skarhus v. Davanni’s Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). We may reverse or modify the decision of a ULJ if a relator’s substantial rights were prejudiced “because the findings, inferences, conclusion, or decision” are “affected by other error of law” or “unsupported by substantial evidence in view of the entire record as submitted.” Minn. Stat. § 268.105, subd. 7(d)(4), (5) (2018).

“A determination of . . . ineligibility is final unless an appeal is filed by the applicant . . . within 20 calendar days” after the determination was sent. Minn. Stat. § 268.101, subd. 2(f) (2018). If an appeal is made by electronic transmission, it is considered filed the day it is received by DEED. Minn. Stat. § 268.035, subd. 17 (2018). If submitted by mail, it is considered filed on the date of the postmark. *Id.* A written statement delivered or mailed to DEED that could be reasonably interpreted to mean that the applicant disagrees with a specific decision is deemed an appeal. Minn. Stat. § 268.103, subd. 2 (2018). Specific

words need not be used for the written statement to be considered an appeal. *Id.* “All information requested by the commissioner when an appeal is filed by electronic transmission must be supplied or the communication does not constitute an appeal.” *Id.*, subd. 1(c) (2018).

A “ULJ must dismiss an untimely appeal from an eligibility determination for lack of jurisdiction” if a party fails to appeal within the statutory time provided. *Kangas v. Indus. Welders & Machinists, Inc.*, 814 N.W.2d 97, 100 (Minn. App. 2012). The ULJ may hold an evidentiary hearing to determine whether the appeal was timely or may summarily dismiss the appeal if it is clearly untimely. Minn. Stat. § 268.105, subd. 1a(c) (2018).

The 20-day statutory deadline for appealing from unemployment-benefits decisions is “absolute and unambiguous.” *Kennedy v. Am. Paper Recycling Corp.*, 714 N.W.2d 738, 379-40 (Minn. App. 2006). Mitigating circumstances create no extensions or exceptions to the statutory deadline. *Rowe v. Dep’t of Emp’t & Econ. Dev.*, 704 N.W.2d 191, 195 (Minn. App. 2005); *Smith v. Masterson Pers., Inc.*, 483 N.W.2d 111, 112 (Minn. App. 1992); *Cole v. Holiday Inns, Inc.*, 347 N.W.2d 72, 73 (Minn. App. 1984).

Relator argues that she did not receive actual notice of the determination in the mail. The record reflects that the determination was mailed to relator at the address she gave to DEED, and relator agrees that her address did not change. The ULJ found that “the event log shows that [relator] did not change her address” listed on her unemployment benefits account, and concluded that DEED sent the determination to the address on file. *See* Minn. Stat. § 268.032(b) (2018) (stating that if any required determination issued is sent by mail to an applicant, the determination “must be sent to the last known address”).

Actual notice is not required for the statutory time period to begin to run. *Johnson v. Metro. Med. Ctr.*, 395 N.W.2d 380, 382 (Minn. App. 1986). Because DEED mailed the determination to relator's listed address on December 26, 2017, and relator filed her appeal on March 5, 2019, 14 months later, her appeal was untimely regardless of whether she received actual notice of the ineligibility determination.

Relator argues that she had "good cause" for filing an untimely appeal because she received "conflicting notices sent by the unemployment agency during the time frame in question" and because she was "experiencing an unexpected family crisis" at the time the appeal was due. The statutory deadlines are clear and unambiguous. There are no exceptions to the rule. *See King v. Univ. of Minn.*, 387 N.W.2d 675, 677 (Minn. App. 1986) (noting that "statutes designating the time for appeal . . . should be strictly construed, regardless of mitigating circumstances"). Even if we were to consider whether relator had "good cause," her argument is unfounded. When relator appealed in 2019, she did not claim that she had not received the determination of ineligibility. To the contrary, she attributed the late filing to a "family crisis" at the time the appeal was due. We see nothing in the record to explain why, if she had never received the determination of ineligibility, she attempted to appeal from that determination. And nothing in the record shows that relator submitted anything to DEED before her March 5, 2019 appeal to indicate her disagreement with the ULJ's ineligibility determination.

Relator also asserts that her constitutional due-process rights were violated because she was not personally served with the ineligibility determination, citing *Godbout v. Dep't of Emp't and Econ. Dev.*, 827 N.W.2d 799 (Minn. App. 2013), in support of her argument.

In *Godbout*, we did not impose a personal-service requirement but instead required DEED to provide “clear notice to the unemployment benefit recipient of the potential consequences of failing to maintain a current mailing address with DEED for four years after the receipt of benefits.” *Id.* at 803. The record here reflects that DEED directed relator to keep the address on her account up to date for at least four years. Because this court has determined in a published opinion that personal service is not required, relator’s argument is without merit. *See Jackson v. Options Residential*, 896 N.W.2d 549, 553 (Minn. App. 2017) (holding that “we are bound by precedent established in . . . our own published opinions”).

Regardless of the merits of relator’s challenge to the underlying determination, she failed to file her appeal within 20 days of the determination of ineligibility. The ULJ did not err in dismissing her appeal as untimely.

Affirmed.