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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0611
A20-0613**

Jody C. Nelson,
Relator,

vs.

TEEMA, Inc.,
Respondent,
Department of Employment and Economic Development,
Respondent.

**Filed December 7, 2020
Affirmed
Reyes, Judge**

Department of Employment and Economic Development
File Nos. 37889099-3; 37690152-3

Jody C. Nelson, Plymouth, Minnesota (pro se relator)

TEEMA, Inc., Litchfield Park, Arizona (respondent employer)

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

Considered and decided by Connolly, Presiding Judge; Reyes, Judge; and Gaitas,
Judge.

UNPUBLISHED OPINION

REYES, Judge

Relator challenges an unemployment-law judge's (ULJ) dismissal of her appeals as untimely from respondent Minnesota Department of Employment and Economic Development's (DEED) determination of ineligibility for unemployment benefits based on undisclosed earnings and determination of misrepresentation. We affirm.

FACTS

Relator Jody C. Nelson applied for and received unemployment benefits from August 1, 2018, to November 15, 2018, after ending employment for Ranstad USA. Relator worked for Ajilon Accounting Principles from November 15, 2018, to February 22, 2019. On February 28, 2019, relator began working for TEEMA, Inc., for whom she worked as of the date of the filing of this writ of certiorari.

DEED requested that TEEMA submit any hours relator worked in 2018 as part of an audit. A TEEMA representative returned the form showing that relator worked the weeks between July 29, 2018 and November 15, 2018, and that TEEMA paid her for those hours in 2019.

On January 6, 2020, DEED sent relator a "Determination of Ineligibility Overpayment Penalty" letter. Based on the information TEEMA provided, DEED determined that relator had earnings during the period she received unemployment benefits, resulting in an overpayment of \$5,811 (the earnings determination). DEED also determined that relator's failure to disclose those earnings amounted to misrepresentation (the misrepresentation determination). The letter stated relator would be penalized in the

amount of \$2,324.40 for the misrepresentation. Under the bold heading titled “Right of Appeal,” the letter read in part that “[t]his determination will become final unless an appeal is filed by Monday, January 27, 2020.”

On January 30, 2020, relator electronically filed appeals on both the earnings determination and the misrepresentation determination, stating that she never worked for TEEMA in 2018 and that TEEMA had submitted wages for the incorrect year. When asked for a reason for filing late by the unemployment insurance system, relator responded: “I apologize, I thought I had until the end of January until I took out the paperwork again” on the earnings determination and “I apologize, I thought I had until the end of January” on the misrepresentation determination.

On January 31, 2020, the ULJ dismissed relator’s appeals as untimely because she filed them three days after the deadline. That same day, TEEMA submitted a corrected form stating that relator had not worked any hours for TEEMA during 2018.

On February 14, 2020, relator timely submitted two identical requests for reconsideration of the ULJ’s dismissal of her appeals. The ULJ affirmed the dismissals because relator failed to file timely appeals by January 27, 2020.

Relator appeals by two writs of certiorari, which we consolidated.

D E C I S I O N

Relator appears to argue that the ULJ erred by dismissing her appeals as untimely because she missed the filing deadline due to DEED’s and TEEMA’s administrative errors. We are not persuaded.

When a ULJ dismisses an appeal as untimely, the only question before this court is whether the ULJ erred in dismissing the appeal, and this court cannot address the merits of the appeal. *Christgau v. Fine*, 27 N.W.2d 193, 199 (Minn. 1947). We cannot grant equitable relief to an untimely appeal. *Cole v. Holiday Inns, Inc.*, 347 N.W.2d 72, 73 (Minn. App. 1984) (“The statutory time for an appeal from a department determination is absolute.”). When an appeal is untimely, the ULJ must dismiss it for lack of jurisdiction. *Id.*

Relator’s argument to this court is inconsistent with the reason she provided when she filed her appeals: “I apologize, I thought I had until the end of January.” The letters DEED sent relator clearly stated that she had 20 days to appeal, until January 27, 2020, and she does not dispute receiving this notice. Because relator did not file appeals within the statutory period, and because the statutory time for appeal is absolute, the ULJ did not err by dismissing relator’s earnings determination and misrepresentation determination appeals as untimely.

Relator also appears to argue that the ULJ erred by not reaching her arguments on the merits of both determinations. Specifically, she argues that the ULJ erred by determining that she failed to disclose her 2018 earnings at TEEMA and that the ULJ should have considered their subsequent submission which showed the contrary. While we recognize that the result is harsh, relator’s late filing divested the ULJ of jurisdiction to consider the merits of her appeal. *Cole*, 347 N.W.2d at 73. And as noted, this court also lacks authority to grant equitable relief to an untimely appeal. *Id.*

Affirmed.