

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-2089**

Michael Samuel,
Relator,

vs.

Department of Employment and Economic Development,
Respondent.

**Filed July 18, 2011
Affirmed
Worke, Judge**

Department of Employment and Economic Development
File No. 25973054-3

Michael Samuel, Brooklyn Park, Minnesota (pro se relator)

Lee B. Nelson, Christina Altavilla, Department of Employment and Economic
Development, St. Paul, Minnesota (for respondent Department)

Considered and decided by Johnson, Chief Judge; Worke, Judge; and Muehlberg,
Judge.*

UNPUBLISHED OPINION

WORKE, Judge

Relator challenges the decision by the unemployment-law judge (ULJ) dismissing
his administrative appeal from a determination of ineligibility for Trade Readjustment

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

Allowance (TRA) benefits as untimely. Because the appeal was untimely, the ULJ had no jurisdiction to decide the merits. We affirm.

D E C I S I O N

Relator Michael Samuel challenges the ULJ's decision to dismiss as untimely his appeal from the determination of ineligibility for TRA benefits. When reviewing the decision of a ULJ, we may affirm the decision, remand for further proceedings, or reverse or modify the decision if the substantial rights of the relator have been prejudiced. Minn. Stat. § 268.105, subd. 7(d) (2010). "An agency decision to dismiss an appeal as untimely is a question of law, which we review de novo." *Kennedy v. Am. Paper Recycling Corp.*, 714 N.W.2d 738, 739 (Minn. App. 2006).

"A determination of . . . ineligibility is final unless an appeal is filed . . . within 20 calendar days after sending." Minn. Stat. § 268.101, subd. 2(f) (2010). This time limitation "is absolute and unambiguous." *Semanko v. Dep't of Emp't Servs.*, 309 Minn. 425, 430, 244 N.W.2d 663, 666 (1976). Statutes designating the time for appeal of an ineligibility determination should be strictly construed in most circumstances. *King v. Univ. of Minn.*, 387 N.W.2d 675, 677 (Minn. App. 1986), *review denied* (Minn. Aug. 13, 1986). "An untimely appeal must be dismissed . . . for lack of jurisdiction." *Cole v. Holiday Inns, Inc.*, 347 N.W.2d 72, 73 (Minn. App. 1984).

Respondent Department of Employment and Economic Development sent relator a determination of ineligibility for TRA benefits on August 27, 2010, and advised him that the decision would be final unless he appealed by September 16, 2010. Because relator did not appeal until September 20, 2010, the ULJ had no legal authority to decide

whether the determination of ineligibility was correct. The ULJ appropriately dismissed the appeal as untimely.

Affirmed.