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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-0365**

Robert Dessin,
Relator,

vs.

Shakopee Valley Ford, Inc.,
Respondent,

Department of Employment
and Economic Development,
Respondent.

**Filed August 27, 2012
Affirmed
Hudson, Judge**

Department of Employment
and Economic Development
File No. 28934153-3

Robert Dessin, Shakopee, Minnesota (pro se relator)

Lee A. Lastovich, Richard R. Voelbel, Felhaber, Larson, Fenlon & Vogt, P.A.,
Minneapolis, Minnesota (for respondent employer)

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

Considered and decided by Kalitowski, Presiding Judge; Halbrooks, Judge; and
Hudson, Judge.

UNPUBLISHED OPINION

HUDSON, Judge

Relator challenges the dismissal by the unemployment-law judge (ULJ) of his appeal of the determination that relator was ineligible for unemployment benefits. Because relator's appeal was untimely, we affirm.

FACTS

Relator Robert Dessin applied for unemployment benefits and, on December 15, 2011, the Minnesota Department of Employment and Economic Development (DEED) issued a determination of ineligibility based on employment misconduct. The determination stated that Dessin was discharged on November 27, 2011, from Shakopee Valley Ford Inc. for a significant violation of company policy and Dessin was, or should have been, aware of the policy. The determination also stated that it would become final unless Dessin filed an appeal by January 4, 2012, which required that Dessin postmark or file any appeal by fax or internet no later than January 4.

Relator filed an appeal on January 6, 2012. The ULJ issued an order dismissing relator's appeal as untimely. Relator filed a timely request for reconsideration, stating that he filed his appeal of the determination late because he was trying to get rehired by his employer. The ULJ affirmed.

This certiorari appeal follows.

DECISION

If an applicant for unemployment benefits does not appeal a determination of ineligibility within 20 days after DEED sends the notice of determination, the

determination becomes final. Minn. Stat. § 268.101, subd. 2(f) (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).

It is undisputed that relator’s appeal was filed on January 6, 2012, two days after the January 4 deadline. Dessin argues that (1) he should have been allowed an additional four days to submit his appeal because four holidays—Christmas Eve, Christmas, New Year’s Eve, and New Year’s Day—occurred between the mailing of the notice of determination and January 4; (2) he was not allowed an extra three days to submit his appeal, which he should have been provided because the ULJ mailed the decision on reconsideration to Dessin; and (3) Dessin delayed filing his appeal because he was working with his employer to be reinstated.

As an initial matter, Dessin cites no caselaw or statutory authority to support his arguments and, therefore, arguably waived them. *See Schoepke v. Alexander Smith & Sons Carpet Co.*, 290 Minn. 518, 519–20, 187 N.W.2d 133, 135 (1971) (determining that “assignment of error based on mere assertion and not supported by any argument or authorities in appellant’s brief is waived,” unless prejudicial error is obvious). Even so, Minnesota caselaw does not support Dessin’s contention that the timeline for appealing an ineligibility determination is extended to take into account holidays. Instead, the deadline is absolute, and no statutory provision exists to extend the period for appealing a determination of disqualification. *See Kennedy*, 714 N.W.2d at 740 (stating that when appeal from disqualification determination is untimely, it must be dismissed for lack of

jurisdiction); *Cole v. Holiday Inns, Inc.*, 347 N.W.2d 72, 73 (Minn. App. 1984) (stating that statutory time for appeal from determination of ineligibility is absolute). Therefore, Dessin's time for filing an appeal was not extended by any holidays occurring in the 20 days after the agency mailed the determination.

In support of his argument that he should have been allowed 33 days to file an appeal, Dessin cites to this court's self-help website, which states that "[y]ou have 30 days to appeal from the time the review judge's decision on reconsideration was *sent* to you. If the ULJ's decision was mailed to you, you have an extra three days to appeal." The self-help website is not binding authority. Furthermore, Dessin confuses the rules that apply to the appeal at issue. A petition for writ of certiorari must be filed with the court of appeals within 30 calendar days of the ULJ's order on reconsideration. Minn. Stat. § 268.105, subd. 7(a) (2010). Additionally, under the Minnesota Rules of Civil Procedure, when a party must take action on materials served by mail, three days is added to the prescribed period. But these rules apply to an appeal made to the court of appeals. Minn. R. Civ. P. 6.05. It is uncontested that Dessin filed a timely appeal from the ULJ's decision on reconsideration to this court. The timeliness issue here instead relates to Dessin's appeal *from* his initial determination of eligibility *to* the ULJ, which must be completed in 20 days. Minn. Stat. § 268.101, subd. 2(f). Because Dessin did not file his appeal of the ineligibility determination before the 20-day deadline, his appeal to the ULJ was untimely.

Finally, Dessin's argument that he waited to file his appeal because he was pursuing reinstatement with his employer lacks merit. Minnesota law prohibits the

equitable award of unemployment benefits. *See* Minn. Stat. § 268.069, subd. 3 (2010) (stating that “[t]here is no equitable or common law denial or allowance of unemployment benefits”). Because Dessin failed to file an appeal of the ineligibility determination by January 4, 2012, the determination became final, and the ULJ properly dismissed Dessin’s appeal for lack of jurisdiction.

Affirmed.