



In the Missouri Court of Appeals Eastern District

DIVISION FIVE

BRUCE GROFE,)	No. ED92036
)	
Claimant/Appellant,)	
)	
vs.)	Appeal from the Labor and
)	Industrial Relations Commission
LAWN GROOMERS, INC., and DIVISION)	
OF EMPLOYMENT SECURITY,)	
)	
Respondents.)	
)	FILED: December 9, 2008

Bruce Grofe (Claimant) appeals the Labor and Industrial Relations Commission's (Commission) decision affirming the determination to deny him unemployment benefits. We dismiss the appeal for lack of jurisdiction.

A deputy of the Division of Employment Security (Division) initially determined that Claimant was not disqualified from receiving unemployment benefits. His employer appealed to the Appeals Tribunal, which reversed the deputy's determination. Claimant then sought review by the Commission, which affirmed the Appeals Tribunal's decision. Claimant has now filed a notice of appeal to this Court.

The Division has filed a motion to dismiss Claimant's appeal, asserting it is untimely and thus, this Court lacks jurisdiction. Claimant has not filed a response to the motion.

Pursuant to section 288.210, RSMo 2000, an unemployment claimant must file the notice of appeal to this Court from the Commission's decision within twenty days of the decision becoming final. The Commission's decision becomes final ten days after it is mailed to the parties. Section 288.200.2, RSMo 2000. Here, the Commission mailed its decision to Claimant on August 22, 2008. Therefore, the notice of appeal was due on or before Monday, September 22, 2008. Sections 288.200.2, 288.210; Section 288.240, RSMo 2000. Claimant mailed his notice of appeal to the Commission on October 20, 2008. Claimant's notice of appeal is untimely under section 288.210.

Chapter 288 governing unemployment cases fails to provide for the filing of a late notice of appeal. McCuin Phillips v. Clean-Tech, 34 S.W.3d 854, 855 (Mo. App. E.D.2000). As a result, an untimely notice of appeal deprives this Court of jurisdiction to entertain the appeal and we must dismiss it. Flotron v. Information Solutions Design, 238 S.W.3d 745, 746 (Mo. App. E.D. 2007).

The Division's motion to dismiss is granted. The appeal is dismissed for lack of jurisdiction.

NANNETTE A. BAKER, CHIEF JUDGE

PATRICIA L. COHEN, J. and
KENNETH M. ROMINES, J., concur.