



In the Missouri Court of Appeals Eastern District

DIVISION ONE

KELLEE JO WOOD,)	No. ED96082
)	
Claimant/Appellant,)	
)	
vs.)	Appeal from the Labor and
)	Industrial Relations Commission
ATLAS CONSTRUCTION & DESIGN, INC., and)	
DIVISION OF EMPLOYMENT SECURITY,)	
)	FILED: March 22, 2011
Respondents.)	

Kellee Jo Wood ("Claimant") has filed a notice of appeal from the Labor and Industrial Relations Commission's ("Commission") decision regarding unemployment benefits. We dismiss the appeal.

Claimant filed a claim for unemployment benefits after losing her job with Atlas Construction & Design, Inc. ("Employer"). A deputy of the Division of Employment Security (Division) denied Claimant's claim, concluding that she had voluntarily left her employment with Employer without good cause attributable to her work or Employer. Claimant filed an appeal to the Appeals Tribunal of the Division, which also concluded that Claimant was disqualified from receiving unemployment benefits. Claimant then sought review with the Commission. The Commission affirmed the decision of the Appeals Tribunal. 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. Claimant has not filed a response to the motion.

In unemployment matters, the procedures outlined for appeal by statute are mandatory. Burch Food Services, Inc. v. Division of Employment Security, 945 S.W.2d 478, 481 (Mo. App. W.D. 1997). A notice of appeal to this Court in an unemployment matter is due within twenty days of the Commission's decision becoming final. Section 288.210, RSMo 2000. 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 October 19, 2010, which makes the notice of appeal to this Court due on or before November 18, 2010. Sections 288.200.2, 288.210. Claimant mailed her notice of appeal to the Commission. Under section 288.240, RSMo 2000, any notice of appeal is deemed filed "as of the date endorsed by the United States post office on the envelope. . . ." The postmark on Claimant's envelope was December 27, 2010. As a result, Claimant's notice of appeal is untimely.

The unemployment statutes set forth stringent guidelines for the filing of the notice of appeal and make no provision for filing a late notice of appeal. Martinez v. Lea-Ed, Inc., 155 S.W.3d 809, 810 (Mo. App. E.D. 2005). The provisions for a special order for late notice of appeal as set forth in Supreme Court Rule 81.07 do not apply to special statutory proceedings, such as unemployment claims. See, Holmes v. Navajo Freight Lines, Inc., 488 S.W.2d 311, 314-15 (Mo. App. 1972). Therefore, our only recourse is to dismiss Claimant's appeal.

The Division's motion to dismiss is granted. The appeal is dismissed.

ROY L. RICHTER, CHIEF JUDGE

KURT S. ODENWALD, J. and
GARY M. GAERTNER, JR., J., concur