

IN THE UTAH COURT OF APPEALS

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Daniel W. Johnston III,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioner,)	
)	Case No. 20090253-CA
v.)	
)	
Department of Workforce)	F I L E D
Services, Workforce Appeals)	(August 27, 2009)
Board,)	
)	2009 UT App 238
Respondent.)	

Original Proceeding in this Court

Attorneys: Daniel W. Johnston III, Bountiful, Petitioner Pro Se
 Suzan Pixton, Salt Lake City, for Respondent

Before Judges Bench, Davis, and McHugh.

PER CURIAM:

Daniel W. Johnston III petitions for judicial review of the final decision of the Workforce Appeals Board (the Board). This case is before the court on its own motion for summary disposition based upon lack of jurisdiction due to the failure to file a timely petition for review of the Board's decision. See Utah R. App. P. 14(a).

A petition for review of an agency's final order must be filed "within 30 days after the date of the written decision or order." Id.; see also Utah Code Ann. § 63G-4-401(3)(a) (2008) ("A party shall file a petition for judicial review of final agency action within 30 days."). If the petition is not timely filed, this court lacks jurisdiction to review the petition and must dismiss it. See Silva v. Department of Employment Sec., 786 P.2d 246, 247 (Utah Ct. App. 1990) (mem.) (per curiam).

The Board issued its final order on January 27, 2009. A copy of the decision was mailed to Johnston and his representative that same day. Johnston claims that he did not receive the January 27, 2009 decision after it was originally mailed. He asserts that he did not receive the decision until he

requested, on March 2, 2009, that another copy be mailed to him.¹ However, in determining whether this court has jurisdiction over the matter, the court is required to use the date stamped on the agency's final order. See Dusty's, Inc. v. Auditing Div. of the Utah State Tax Comm'n, 842 P.2d 868, 870 (Utah 1992) (per curiam). Johnston filed his petition for review on March 30 2009, sixty-two days after the issuance of the decision by the Board, and well beyond the time limitation set forth in rule 14(a). See Utah R. App. P. 14(a). Because Johnston did not timely file a petition for review, we lack jurisdiction to consider the merits of the petition. When we lack jurisdiction, we retain "only the authority to dismiss the action." Varian-Eimac, Inc. v. Lamoreaux, 767 P.2d 569, 570 (Utah Ct. App. 1989).

Therefore, the petition for review is dismissed for lack of jurisdiction.

Russell W. Bench, Judge

James Z. Davis, Judge

Carolyn B. McHugh, Judge

¹Johnston makes no reference to the copy of the decision that the Board mailed to Johnston's personal representative.