

IN THE UTAH COURT OF APPEALS

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Susi Kontgis,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioner,)	
)	Case No. 20100717-CA
v.)	
)	F I L E D
Salt Lake City Corp.,)	(November 4, 2010)
)	
Respondent.)	2010 UT App 309

Original Proceeding in this Court

Attorneys: Chad M. Steur, Salt Lake City, for Petitioner
Margaret D. Plane, Salt Lake City, for Respondent

Before Judges Davis, McHugh, and Voros.

PER CURIAM:

Susi Kontgis petitions for review of the denial of her appeal of her discharge from employment with Salt Lake City Corporation (SLCC). This is before the court on SLCC's motion for summary disposition asserting that this court lacks jurisdiction because Kontgis's petition for review was untimely.

On August 3, 2010, Kontgis received a letter notifying her that the Employee Appeals Board (the Board) lacked jurisdiction over her appeal because she had filed it beyond the statutory time to file. Pursuant to Utah Code section 10-3-1106(3)(a), an appeal from an employment action must be filed with the Board within ten days after the action. See Utah Code Ann. § 10-3-1106(3)(a) (2007). Kontgis had not filed her appeal until July 28, 2010--well beyond the statutory period even if considering the discharge letter dated June 21, 2010.

Kontgis petitioned for review in this court, seeking review of the August 3 letter declining jurisdiction. Pursuant to Utah Code section 10-3-1106(6)(b), a petition for review must be filed within thirty days after the final action. See id. § 10-3-1106(6)(b). Kontgis did not file her petition in this court

until September 3, 2010--thirty-one days after the final action.¹ Accordingly, her petition for review is untimely.

The timely filing of a petition for review is jurisdictional. See Silva v. Department of Emp't Sec., 787 P.2d 246, 247 (Utah Ct. App. 1990). Because Kontgis did not timely file her petition for review, this court lacks jurisdiction and must dismiss the petition. See Varian-Eimac, Inc. v. Lamoreaux, 767 P.2d 569, 570 (Utah Ct. App. 1989).

Dismissed.

James Z. Davis,
Presiding Judge

Carolyn B. McHugh,
Associate Presiding Judge

J. Frederic Voros Jr., Judge

¹In her response, Kontgis now asserts that the letter was not a final order of the Board because it did not meet the formal requirements of Board orders under Utah Code section 10-3-1106(5)(a) (2007). However, those formal requirements apply when the Board issues a decision on the merits. See Utah Code Ann. § 10-3-1106(5)(a). Here, the letter notified Kontgis that the Board lacked jurisdiction to consider the appeal and, thus, constituted the "final action" for purposes of further review. See id. § 10-3-1106(6)(b) (providing for review of final actions or orders of the board).