



In the Missouri Court of Appeals Eastern District

DIVISION FIVE

NEDELJKO GAVRANOVIC,)	No. ED92387
)	
Claimant/Appellant,)	
)	
vs.)	Appeal from the Labor and
)	Industrial Relations Commission
NORWOOD HILLS CORPORATION, and)	
DIVISION OF EMPLOYMENT SECURITY,)	
)	
Respondents.)	
)	FILED: March 3, 2009

Nedeljko Gavranovic (Claimant) appeals the Labor and Industrial Relations Commission's (Commission) decision denying his claim for unemployment benefits. We dismiss the appeal for lack of jurisdiction.

A deputy of the Division of Employment Security (Division) determined that Claimant was disqualified from receiving unemployment benefits because he was discharged due to misconduct connected with his work. He appealed to the Appeals Tribunal, which affirmed the disqualification. 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.

An aggrieved party may file a notice of appeal to this Court from the Commission's decision in unemployment matters within twenty days of the 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 8, 2008. Therefore, the notice of appeal was due on or before November 7, 2008. Sections 288.200.2, 288.210. Claimant mailed the notice of appeal to the Commission in an envelope postmarked December 24, 2008. Under section 288.240, RSMo 2000, the notice of appeal is deemed filed on that date. Brandes v. Correctional Medical Services, 216 S.W.3d 238 (Mo. App. E.D.2007). The notice of appeal is untimely under section 288.210.

There is no provision in Chapter 288 governing unemployment cases to file a late notice of appeal. McCuin Phillips v. Clean-Tech, 34 S.W.3d 854, 855 (Mo. App. E.D.2000). Consequently, if the notice of appeal is untimely, this Court is deprived of jurisdiction to entertain the appeal and we can only dismiss it. Alfred v. Delmar Gardens of Creve Coeur Operating, LLC, 257 S.W.3d 185, 186 (Mo. App. E.D. 2008).

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.