



In the Missouri Court of Appeals Eastern District

DIVISION FIVE

MARY GADDIE,)	No. ED93946
)	
Claimant/Appellant,)	
)	
vs.)	Appeal from the Labor and
)	Industrial Relations Commission
TIPTON TEXTILE RENTAL, INC., and)	
DIVISION OF EMPLOYMENT SECURITY,)	
)	FILED: January 19, 2010
Respondents.)	

Mary Gaddie (Claimant) appeals the Labor and Industrial Relations Commission's (Commission) decision denying her application for unemployment benefits. We dismiss the appeal.

A deputy of the Division of Employment Security (Division) concluded that Claimant was ineligible for unemployment benefits. Claimant then appealed to the Appeals Tribunal of the Division, which affirmed the deputy's decision. Claimant then filed an application for review with the Commission, which issued an order affirming the Appeals Tribunal's decision. Claimant filed a notice of appeal to this Court in a prior appeal, no. ED92381. This Court remanded the matter to the Commission to reconsider its order in light of the Missouri Supreme Court's decision in Difatta-Wheaton v. Dolphin Capital Corp., 271 S.W.3d 594 (Mo. banc 2008). On March 17, 2009, the Commission issued a decision again affirming the Appeal Tribunal's decision. On August 13, 2009, Claimant filed another 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.

Section 288.210, RSMo 2000, requires that a notice of appeal to this Court from the Commission's decision be filed 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 March 17, 2009. Therefore, the notice of appeal to this Court was due on or before April 16, 2009. Sections 288.200.2, 288.210. Claimant filed her notice of appeal on August 13, 2009, which is untimely.

"Section 288.200 RSMo does not provide for late filing and does not recognize any exceptions for filing out of time." 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. Gayfield v. Boston Market Corp., 291 S.W.3d 363, 364 (Mo. App. E.D. 2009).

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

KENNETH M. ROMINES, CHIEF JUDGE

NANNETTE A. BAKER, J. and
ROY L. RICHTER, J., concur.