



In the Missouri Court of Appeals Eastern District

DIVISION FIVE

KANESSHA ROBINSON,)	No. ED94710
)	
Claimant/Appellant,)	
)	
vs.)	Appeal from the Labor and
)	Industrial Relations Commission
NATIONAL ARCHIVES AND RECORDS)	
ADMINISTRATION and DIVISION OF)	
EMPLOYMENT SECURITY,)	
)	
Respondents.)	FILED: June 29, 2010

Kanessha Robinson (Claimant) appeals the Labor and Industrial Relations Commission's (Commission) decision regarding 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. She appealed to the Appeals Tribunal of the Division, which dismissed her appeal. Claimant then filed an application for review with the Commission, which dismissed her application for review. Claimant 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.

Section 288.210, RSMo 2000, requires that a claimant file a notice of appeal to this Court from the Commission's decision 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 February 17, 2010. Therefore, the notice of appeal to this Court was due on or before March 18, 2010. Sections 288.200.2, 288.210.

Claimant mailed her notice of appeal to the Commission. Under section 288.240, RSMo 2000, a notice of appeal that is mailed to the Commission is "deemed to be filed as of the date endorsed by the United States post office on the envelope. . . ." Here the date endorsed by the United States post office was April 10, 2010. As a result, Claimant's notice of appeal is untimely under section 288.200.

Unemployment benefits are solely a creature of statutory provision. Martinez v. Lea-Ed, Inc., 155 S.W.3d 809, 810 (Mo. App. E.D. 2005). The unemployment statutes do not provide for the late filing of the notice of appeal and do 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).

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

KENNETH M. ROMINES, CHIEF JUDGE

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