



In the Missouri Court of Appeals Eastern District

DIVISION ONE

SHEILA RUDDER,)	No. ED94979
)	
Claimant/Appellant,)	
)	
vs.)	Appeal from the Labor and
)	Industrial Relations Commission
MERS/MISSOURI GOODWILL INDUSTRIES,)	
and DIVISION OF EMPLOYMENT SECURITY,)	
)	OPINION FILED: August 3, 2010
Respondents.)	

Sheila Rudder (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 appealed to the Appeals Tribunal, which affirmed the deputy's conclusion. Claimant then filed an application for review with the Commission, which issued an order affirming 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. 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 May 3, 2010. Therefore, the notice of appeal to this Court was due on or before June 2, 2010. Sections 288.200.2, 288.210. Claimant faxed her notice of appeal to the Commission on June 4, 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.

ROY L. RICHTER, CHIEF JUDGE

KURT S. ODENWALD, J. and
GARY M. GAERTNER, JR., J., concur