



# In the Missouri Court of Appeals Eastern District

## DIVISION ONE

MICHAEL COURTWAY,	)	No. ED96608
	)	
Claimant/Appellant,	)	
	)	
vs.	)	Appeal from the Labor and
	)	Industrial Relations Commission
SONIC DRIVE-IN OF FARMINGTON	)	
and DIVISION OF EMPLOYMENT SECURITY,	)	
	)	FILED: June 14, 2011
Respondents.	)	

Michael Courtway ("Claimant") has filed a notice of appeal from the Labor and Industrial Relations Commission's ("Commission") decision regarding his claim for unemployment benefits. We dismiss the appeal.

Claimant filed a claim for unemployment benefits. A deputy of the Division of Employment Security ("Division") awarded Claimant unemployment benefits and his employer appealed to the Appeals Tribunal of the Division. The Appeals Tribunal reversed the deputy's determination and concluded Claimant was disqualified from receiving unemployment benefits. Claimant then sought review with 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. Claimant has not filed a response to the motion.

In unemployment matters, the procedures outlined for appeal by statute are mandatory. Burch Food Services, Inc. v. Division of Employment Security, 945 S.W.2d 478, 481 (Mo. App. W.D. 1997). Section 288.210, RSMo 2000, provides that a notice of appeal to this Court in an unemployment matter is due within twenty days of the Commission's 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, 2011. Therefore, Claimant's notice of appeal to this Court was due on or before Monday, March 21, 2011. Sections 288.200.2, 288.210, 288.240, RSMo 2000. Claimant mailed his notice of appeal to the Commission. Under section 288.240, any notice of appeal is deemed filed "as of the date endorsed by the United States post office on the envelope. . . ." The postmark on Claimant's envelope was April 12, 2011, which is untimely under section 288.210.

The unemployment statutes set forth stringent guidelines for the filing of the notice of appeal and make no provision for filing a late notice of appeal. Martinez v. Lea-Ed, Inc., 155 S.W.3d 809, 810 (Mo. App. E.D. 2005). The provisions for a special order for late notice of appeal as set forth in Supreme Court Rule 81.07 do not apply to special statutory proceedings, such as unemployment claims. See, Holmes v. Navajo Freight Lines, Inc., 488 S.W.2d 311, 314-15 (Mo. App. 1972). Because Claimant's notice of appeal was untimely under the unemployment statutes, our only recourse is to dismiss Claimant's appeal.

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

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ROY L. RICHTER, CHIEF JUDGE

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