



# In the Missouri Court of Appeals Eastern District

## DIVISION FIVE

SHELLY PROFFITT,	)	No. ED97291
	)	
Claimant/Appellant,	)	
	)	
vs.	)	Appeal from the Labor and
	)	Industrial Relations Commission
EXECUTIVE CLEANING SERVICES, and	)	
DIVISION OF EMPLOYMENT SECURITY,	)	
	)	FILED: December 6, 2011
Respondents.	)	

Claimant Shelly Proffitt appeals from the Labor and Industrial Relations Commission's (Commission) decision concerning her claim for unemployment benefits. We dismiss the appeal.

Claimant filed a claim for unemployment benefits and a deputy of the Division of Employment Security (Division) concluded that Claimant was entitled to benefits. Her employer appealed to the Appeals Tribunal, which reversed the deputy's determination and concluded Claimant was disqualified. Claimant then filed an application for review by the Commission. The Commission affirmed the Appeals Tribunal's decision. The Commission mailed this decision to Claimant on July 1, 2011. Claimant filed a notice of appeal to this Court on August 29, 2011. The Division has filed a motion to dismiss Claimant's appeal, asserting it is untimely. Claimant has not filed a response to the motion.

The Commission's decision becomes final ten days after it is mailed to the parties. Section 288.200.2, RSMo 2000. After it becomes final, an aggrieved party has twenty days to file a notice of appeal to the Court of Appeals. Section 288.210, RSMo 2000.

Here, the Commission mailed its decision to Claimant on July 1, 2011. Therefore, Claimant's notice of appeal to this Court was due on or before Monday, August 1, 2011. Sections 288.200.2, 288.210; 288.240, RSMo 2000. Claimant faxed a notice of appeal to the Commission on August 29, 2011. Claimant's notice of appeal is untimely under section 288.210.

The unemployment statutes provide the guidelines for the filing of the notice of appeal and make no provision for filing a late notice of appeal. Colletti v. Division of Employment Sec., 339 S.W.3d 598, 599 (Mo. App. E.D. 2011). In addition, 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. Holmes v. Navajo Freight Lines, Inc., 488 S.W.2d 311, 314-15 (Mo. App. 1972); See also, Porter v. Emerson Elec. Co., 895 S.W.2d 155, 158-59 (Mo. App. S.D. 1995). Therefore, 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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KURT S. ODENWALD, CHIEF JUDGE

ROBERT G. DOWD, JR., J. and  
GARY M. GAERTNER, JR., J., Concur.