



In the Missouri Court of Appeals Eastern District

DIVISION FIVE

RICARDO FRANKLIN,)	No. ED93585
)	
Claimant/Appellant,)	
)	
vs.)	Appeal from the Labor and
)	Industrial Relations Commission
AUTOZONERS, INC., and)	
DIVISION OF EMPLOYMENT SECURITY,)	
)	FILED: November 17, 2009
Respondents.)	

Ricardo Franklin (Claimant) appeals the Labor and Industrial Relations Commission's (Commission) decision denying his application for unemployment benefits. We dismiss the appeal.

The Division of Employment Security (Division) concluded that Claimant was ineligible for unemployment benefits. Claimant then appealed to the Commission, which affirmed the 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 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 August 3, 2009. Therefore, the notice of appeal to this Court was due on or before September 2, 2009. Sections 288.200.2, 288.210. Claimant mailed the notice of appeal to the Commission in an envelope with a postmark of September 3, 2009, which is deemed the date of the filing of his notice of appeal. Section 288.240, RSMo 2000. Claimant's notice of appeal 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. Withrow v. Shining Example Floor Maintenance Co., Inc., 277 S.W.3d 302, 303 (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.