MISSOURI COURT OF APPEALS
WESTERN DISTRICT

KALEAHA RAYNER

APPELLANT,

v.

DIVISION OF EMPLOYMENT SECURITY

RESPONDENT.

DOCKET NUMBER WD84225

DATE: October 5, 2021

Appeal From:

Labor and Industrial Relations Commission

Appellate Judges:

Division Four: Cynthia L. Martin, Chief Judge, Presiding, Gary D. Witt, Judge and W. Ann Hansbrough, Special Judge

---

Attorneys:

Kaleaha Rayner, Appellant Pro Se.

Bart A. Matanic, Jefferson City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

KALEAHA RAYNER, APPELLANT,
v.
DIVISION OF EMPLOYMENT SECURITY, RESPONDENT.

WD84225 Labor and Industrial Relations Commission

Before Division Four Judges: Cynthia L. Martin, Chief Judge, Presiding, Gary D. Witt, Judge, and W. Ann Hansbrough, Special Judge

Kaleaha Rayner ("Rayner") appeals the Order of the Labor and Industrial Relations Commission ("Commission"), dismissing her application for review of the decision of the Appeals Tribunal because the Commission lacked statutory authority to conduct such review, as the application for review was not timely filed. On appeal, Rayner asserts that she had, in fact, mailed a timely application for review.

REVERSED AND REMANDED.

Division Four holds:

"Section 288.200 provides that an unemployment claimant has thirty days from the mailing of the Appeals Tribunal's decision to file an application for review with the Commission." *Ward v. Div. of Emp. Sec.*, 600 S.W.3d 283, 287 (Mo. App. W.D. 2020). Section 288.240 provides that any notice of appeal required to be filed with the Commission "shall, when mailed to and received by the [C]omission, ***be deemed to be filed as of the date endorsed by the United States post office on the envelope or container in which such paper is received***." (Emphasis added).

The Commission made no findings on the issue of the timeliness of Rayner's purported August 26, 2020 application for review nor on the credibility of Rayner's assertion that she timely mailed her first application for review. The Commission's order stating that it had no jurisdiction and was therefore dismissing the application for review suggests that it did not consider this issue. *Dixon v. Stoan Industries, Inc.*, 216 S.W.3d 684, 688 (Mo. App. S.D. 2006) indicates that we should remand to the Commission "with directions to hold a hearing and make findings of fact as to the date on which [Rayner's application for review] is deemed filed, in accordance with section 288.240 as construed in this opinion."

Opinion by: Gary D. Witt, Judge October 5, 2021

****

This summary is UNOFFICIAL and should not be quoted or cited.