



# In the Missouri Court of Appeals Eastern District

## DIVISION ONE

MARILYN WILLIAMS,	)	No. ED95017
	)	
Claimant/Appellant,	)	
	)	
vs.	)	Appeal from the Labor and
	)	Industrial Relations Commission
UNITED HEALTHCARE SERVICES, INC.,	)	
and DIVISION OF EMPLOYMENT SECURITY,	)	
	)	OPINION FILED: August 31, 2010
Respondents.	)	

Marilyn Williams (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. After an appeal to the Appeals Tribunal, which affirmed the deputy, Claimant filed an application for review with the Commission. The Commission 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.

The unemployment statutes require a claimant to file a notice of appeal to this Court from the Commission's decision within twenty days of the decision becoming final. Section 288.210,

RSMo 2000. 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 12, 2010. Therefore, the notice of appeal to this Court was due on or before June 11, 2010. Sections 288.200.2, 288.210. Claimant mailed her notice of appeal to the Commission on June 12, 2010. Under section 288.240, RSMo 2000, 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 June 12, 2010. As a result, Claimant's notice of appeal is untimely.

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.

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ROY L. RICHTER, CHIEF JUDGE

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