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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-0686**

Cornelius Williams,
Relator,

vs.

Department of Employment and Economic Development,
Respondent.

**Filed December 11, 2017
Affirmed
Reyes, Judge**

Department of Employment and Economic Development
File No. 34374436-5

Cornelius Williams, St. Louis Park, Minnesota (pro se relator)

Lee B. Nelson, Minnesota Department of Employment and Economic Development, St.
Paul, Minnesota (for respondent)

Considered and decided by Peterson, Presiding Judge; Bjorkman, Judge; and Reyes,
Judge.

UNPUBLISHED OPINION

REYES, Judge

Relator challenges a decision by an unemployment-law judge (ULJ) on reconsideration that relator is ineligible for unemployment benefits because he did not timely appeal respondent's determinations of ineligibility and fraud. Relator argues that the ULJ erred because: (1) he had moved to a new residence and did not receive notice of

respondent's determinations and (2) he provided respondent with his email address. We affirm.

FACTS

In November 2015, Relator Cornelius Williams applied for unemployment benefits from respondent Minnesota Department of Employment and Economic Development (DEED). He provided his address in Brooklyn Center, Minnesota, for mailing correspondence. Shortly thereafter, relator moved and did not update his mailing address with DEED.

On December 14, 2015, relator began employment with Horizontal Integration, Inc. While employed there, relator filed online requests for unemployment benefits for the weeks of December 13 through December 19, December 20 through 26, and December 27 through January 2, receiving \$424.32 in unemployment benefits for each period.

The online continued-benefits request requires beneficiaries to view an "Address Verification" screen, which instructs them to keep their address up-to-date for four years after the last request for benefits payment has been made. It also cautions that if DEED cannot contact the beneficiary, it will make audit findings without the beneficiary's input, and the beneficiary will be responsible for any overpayments that might result.

In January 2016, DEED audited relator's benefit account. Relator's employer provided DEED with a detailed weekly breakdown of hours worked, hourly wage, and gross earnings. In February 2016, DEED issued a determination finding relator ineligible for unemployment benefits for the three weeks of December 13, 2015 through January 2, 2016, and issued a fraud determination, assessing a penalty of \$508.80. DEED mailed both

determinations to relator's registered address in Brooklyn Center. The determinations stated each would become final unless relator filed an appeal within 20 calendar days.

In early November 2016, relator became aware of both February 2016 determinations of ineligibility and fraud and requested a late appeal. A ULJ summarily dismissed relator's appeal. Relator requested reconsideration. On reconsideration, the ULJ set aside the prior summary dismissal and ordered a hearing on the question of jurisdiction. During the hearing, the ULJ found the court lacked jurisdiction because relator did not timely file the appeal. Relator requested reconsideration, and the ULJ affirmed.

Relator filed a petition for a writ of certiorari.

D E C I S I O N

Relator argues that the ULJ erred because: (1) he had moved and did not receive notice of respondent's determinations and (2) he provided respondent with his email address. We disagree.

We may affirm or remand, reverse, or modify a ULJ's decision if, among other things, the decision is "made upon unlawful procedure," contrary to law, or unsupported by substantial record evidence. Minn. Stat. § 268.105, subd. 7(d)(3)-(5) (Supp. 2017).

By statute, both ineligibility for unemployment benefits and fraud determinations are final unless the applicant files an appeal within 20 calendar days after the determinations are mailed. Minn. Stat. §§ 268.101, subd. 2(f); 268.18, subd. 2(b) (2016). Relator admittedly did not file an appeal until November 10, 2016, after the appeal period expired. There is no legal basis for relator's untimely appeal to be heard and decided on

the merits, and there is no equitable entitlement to unemployment benefits. Minn. Stat. § 268.069, subd. 3 (2016).

The law on timeliness of an appeal is “absolute and unambiguous.” *Semanko v. Dep’t of Emp’t Servs.*, 309 Minn. 425, 428-30, 244 N.W.2d 663, 666 (1976); see *Kennedy v. Am. Paper Recycling Corp.*, 714 N.W.2d 738, 739 (Minn. App. 2006) (applying *Semanko*). The time period for appeals under the Minnesota Unemployment Insurance Law must be “strictly construed, regardless of mitigating circumstances.” *King v. Univ. of Minn.*, 387 N.W.2d 675, 677 (Minn. App. 1986).

In relation to the non-receipt of a determination, “[t]he statute does not require actual notice of the determination for the appeal period to run.” *Grewe v. Comm’r of Econ. Sec.*, 385 N.W.2d 894, 895 (Minn. App. 1986). In *Godbout v. Dep’t of Emp’t and Econ. Dev.*, we held that the state constitutional right to due process requires that, preceding the mailing of a determination, the applicant must be given “clear notice” of the “potential consequences of failing to maintain a current mailing address with DEED for four years after the receipt of benefits.” 827 N.W.2d 799, 803 (Minn. App. 2013). Relator knew of the potential consequences of failure to update his address. He admitted to viewing the “Address Verification” screen but did not change his address and instead “just kept going forward.” Thus, relator had notice of his continued obligation to update his mailing address with DEED.

Relator also argues that the ULJ erred in its reconsideration determination because he provided DEED with his email address. In his application for unemployment benefits, he answered “yes” to a question that asked, “When possible, would you like to view your

mail via Email, instead of by U.S. Mail?” He then listed and confirmed his email address.

By statute, DEED has the discretion to issue determinations by “electronic transmission” under certain circumstances. Minn. Stat. § 268.032(a) (2016). DEED also has the statutory discretion to send determinations by U.S. mail, in which case it must be mailed to an applicant’s “last known address.” *Id.* (b) (2016). As DEED notes in its brief, it does not issue determinations by email because email is not secure, and determinations contain sensitive information, including social security numbers and wage data. Instead, all determinations are sent via U.S. Mail. Thus, DEED had no obligation to email relator.

The ULJ did not err by finding that it lacked jurisdiction because relator did not file a timely appeal.

Affirmed.