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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1195**

Sujata Sangwan,
Relator,

vs.

Department of Employment and Economic Development,
Respondent.

**Filed March 5, 2018
Affirmed
Peterson, Judge**

Department of Employment and Economic Development
File No. 35431731-3

Sujata Sangwan, North St. Paul, Minnesota (pro se relator)

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

Considered and decided by Peterson, Presiding Judge; Worke, Judge; and Ross,
Judge.

UNPUBLISHED OPINION

PETERSON, Judge

This unemployment-compensation appeal is from an unemployment-law judge's
(ULJ) decision dismissing relator's administrative appeal as untimely. We affirm.

FACTS

In March 2016, relator Sujata Sangwan was discharged from her employment as a teacher for the Minneapolis School District. Effective March 6, 2016, relator established a benefit account with respondent Minnesota Department of Employment and Economic Development (DEED). Relator filed requests for benefits for each week from March 6, 2016, through May 14, 2016, and was paid a total of \$5,523 in unemployment benefits. Relator reached a settlement in a lawsuit against the school district, under which she was paid her salary for the period from March 9, 2016, through September 30, 2016, and a lump-sum payment of \$1,200.

DEED issued a determination of ineligibility, finding that, under the settlement, relator was on a paid leave of absence and, therefore, was ineligible for unemployment benefits for the period from March 6, 2016, through May 14, 2016. Relator appealed, and, in a decision issued on February 14, 2017, a ULJ found that relator was not on a leave of absence after March 8, 2016, that she did not receive back pay, and that she was not overpaid unemployment benefits. The ULJ also found that relator received a separation payment of \$46,107.68, which the ULJ applied to the period from July 23, 2016, through February 11, 2017, under Minn. Stat. § 268.085, subd. 3(b) (2016). The ULJ affirmed this decision on reconsideration on April 6, 2017.

On February 21, 2017, relator filed weekly requests for continued unemployment benefits for the 16-week period from May 15, 2016, through September 3, 2016. To be eligible for benefits, an applicant must file a weekly continued request for benefits under Minn. Stat. § 268.0865. Minn. Stat. § 268.085, subd. 1(1) (2016). Under Minn. Stat.

§ 268.0865, subds. 3(b), 4(b) (2016), a request for benefits must be filed within four calendar weeks following the week for which payment is requested unless good cause is shown for the late request. DEED requested information about why relator did not request payments as scheduled, and relator stated, “Because I was told by your office that if I settled with [my employer] I am not entitled to unemployment benefits.”

On March 6, 2017, DEED issued a determination of ineligibility because relator’s continued request for benefits was not filed within four calendar weeks following the week for which payment was requested and relator had not shown good cause for the untimely request. That determination, which is the subject of this appeal, states, “This determination will become final unless an appeal is filed by Monday, March 27, 2017.”

Relator filed an appeal of the March 6, 2017 determination of ineligibility on April 20, 2017. Her appeal states:

I wish to file a late appeal as [the ULJ] has affirmed on April 6, 2017 that I am & was eligible during the time period from March 9th - to August 29th, 2016. I had received payments as requested until May 14th, 2016. So, I need to receive and be able to request week from May 15th, 2016 to August 29th, 2016.

A second ULJ summarily dismissed relator’s appeal as untimely. Relator requested reconsideration, stating that she “was asked by your office to wait for [the first ULJ’s] ruling as they cannot do anything before that” and she “was not late and just waited for [the first ULJ’s] ruling which was on April 6th, 2017.” On reconsideration, the second ULJ affirmed the dismissal and explained:

The appeals that [relator] filed to the determinations of ineligibility that were addressed by [the first ULJ] were filed prior to the March 6, 2017 determination of ineligibility being

issued, and therefore cannot be considered timely appeals to the March 6, 2017, determination of ineligibility. It is unclear what [relator] is referring to with respect to being told to wait, but the March 6, 2017, determination clearly stated that it would become final unless an appeal was filed by March 26,¹ 2017.

This certiorari appeal followed.

DECISION

This court may affirm the decision of the ULJ or may reverse or modify the decision if a petitioner's substantial rights were prejudiced because the ULJ's decision was "made upon unlawful procedure" or affected by an "error of law." Minn. Stat. § 268.105, subd. 7(d)(3), (4) (2016). "An agency decision to dismiss an appeal as untimely is a question of law, which we review de novo." *Kennedy v. Am. Paper Recycling Corp.*, 714 N.W.2d 738, 739 (Minn. App. 2006).

A determination of ineligibility is final unless the applicant files an appeal within 20 calendar days after the determination is sent to the applicant. Minn. Stat. § 268.101, subd. 2(f) (2016). "An untimely appeal from a determination must be dismissed for lack of jurisdiction." *Stassen v. Lone Mountain Truck Leasing, LLC*, 814 N.W.2d 25, 29 (Minn. App. 2012). "There is no equitable or common law denial or allowance of unemployment benefits." Minn. Stat. § 268.069, subd. 3 (2016). When a ULJ dismisses an appeal as untimely, the only question before this court is whether the ULJ erred in dismissing the

¹ As we have already stated, the March 6, 2017 determination of ineligibility states, "This determination will become final unless an appeal is filed by Monday, March 27, 2017." The second ULJ's reference to March 26, 2017, appears to be a typographical error. This misstatement in the second ULJ's decision does not affect our decision.

appeal, and this court cannot address the merits of the appeal. *See Christgau v. Fine*, 223 Minn. 452, 463, 27 N.W.2d 193, 199 (1947).

The time periods for appeal under the unemployment-compensation statutes must be “strictly construed, regardless of mitigating circumstances.” *King v. Univ. of Minn.*, 387 N.W.2d 675, 677 (Minn. App. 1986), *review denied* (Minn. Aug. 13, 1986). The “20-day deadline is absolute and unambiguous.” *Kangas v. Indus. Welders & Machinists, Inc.*, 814 N.W.2d 97, 100 (Minn. App. 2012) (quotation omitted). The March 6, 2017 determination of ineligibility stated that relator was required to appeal by March 27, 2017, and relator failed to comply with that requirement. Although relator may have been confused about whether she had to file requests for continued benefits while the proceeding was pending before the first ULJ, she cites no authority indicating that this is a legally valid excuse for failing to comply with the 20-day appeal requirement. Therefore, the second ULJ did not err in dismissing relator’s untimely appeal.

Affirmed.