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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1927**

Mackenzie Carney,
Relator,

vs.

Optum Services, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed June 10, 2019
Affirmed
Reilly, Judge**

Department of Employment and Economic Development
File No. 36667645-3

Mackenzie Carney, Minneapolis, Minnesota (pro se relator)

Optum Services, Inc., St. Louis, Missouri (respondent employer)

Lee B. Nelson, St. Paul, Minnesota (for respondent department)

Considered and decided by Johnson, Presiding Judge; Reilly, Judge; and John
Smith, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

REILLY, Judge

Relator challenges an unemployment-law judge's dismissal of her appeal of an ineligibility determination as untimely. We affirm.

FACTS

Relator Mackenzie Carney worked for Optum Services, Inc. and established an unemployment-benefits account effective February 4, 2018. When Carney first applied for unemployment benefits, she listed her address in Eden Prairie, but she updated it on March 20, 2018, to an address in Minneapolis.

On August 10, 2018, the Department of Employment and Economic Development (DEED) mailed Carney a determination of ineligibility at her address in Minneapolis. The determination explained that Carney was ineligible for unemployment benefits for one week and that Carney had until August 30—20 days after the mailing—to appeal.

Carney appealed the determination of ineligibility on September 13. When filing her appeal, Carney was asked to verify her address. Carney made no changes to her address, listed in Minneapolis, but stated that she did not receive the original determination and had recently moved.

An unemployment-law judge (ULJ) summarily dismissed Carney's appeal as untimely. Carney requested reconsideration, stating that she did not receive the determination letter from DEED in August, and had moved multiple times which may have prevented her from receiving any mail. The ULJ affirmed the order of dismissal and found

that DEED sent the determination to the address provided on Carney's unemployment-benefits account. This appeal follows.

DECISION

When reviewing the ULJ's conclusions, this court may affirm the decision, remand for further proceedings, or we "may reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced." Minn. Stat. § 268.105, subd. 7(d) (2018). A ULJ's decision to dismiss an appeal as untimely is a question of law, which this court reviews de novo. *Stassen v. Lone Mountain Truck Leasing, LLC*, 814 N.W.2d 25, 29 (Minn. App. 2012). Although Carney challenges the underlying determination of ineligibility, when a ULJ dismisses an appeal as untimely, the only question before this court is whether the ULJ erred in dismissing the appeal. *Christgau v. Fine*, 27 N.W.2d 193, 199 (Minn. 1947).

A "determination of ineligibility is final unless an appeal is filed by the applicant or employer within 20 calendar days after sending." Minn. Stat. § 268.101, subd. 2(f) (2018). Once a decision becomes final, the ULJ is "deprived of jurisdiction to conduct further review," *Rowe v. Dep't of Emp't & Econ. Dev.*, 704 N.W.2d 191, 196 (Minn. App. 2005), and "must issue a decision dismissing the appeal as untimely if the judge decides the appeal was not filed within 20 calendar days after the sending of the determination." Minn. Stat. § 268.105, subd. 1a(c) (2018). The statutory time period is "absolute and unambiguous," and there are no provisions for exceptions or extensions. *Kennedy v. Am. Paper Recycling Corp.*, 714 N.W.2d 738, 739-40 (Minn. App. 2006).

Carney argues that she did not receive the determination of ineligibility from DEED because she did not have a permanent living situation or access to the mailbox at the address listed. The ULJ found that DEED sent the determination to the address Carney listed on her unemployment-benefits account, fulfilling its statutory obligations. *See* Minn. Stat. § 268.032(b) (2018) (stating that if any required determination issued is sent by mail to an applicant, the determination “must be sent to the last known address”). The record shows that Carney updated her address on March 20, 2018 and DEED sent the determination to this address. The record reflects that DEED fulfilled its statutory obligation of mailing the determination of ineligibility to Carney’s last known address, as it is the responsibility of relator to update her address if any changes occur. *See Johnson v. Metro. Med. Ctr.*, 395 N.W.2d 380, 382 (Minn. App. 1986) (affirming dismissal after DEED sent determination to relator’s last known address).

“The date of mailing commences the time for appeal.” *Smith v. Masterson Pers., Inc.*, 483 N.W.2d 111, 112 (Minn. App. 1992). Actual notice is not required for the statutory time period to run. *Johnson*, 395 N.W.2d at 382. Because DEED mailed the determination to Carney’s last known address on August 10 which commenced the 20-day time period, and Carney filed her appeal on September 13, her appeal was untimely.

Although Carney’s challenge to the underlying determination may have merit, Carney failed to file her appeal within 20 days of the determination of ineligibility. The ULJ did not err in dismissing her appeal as untimely.

Affirmed.