

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0942**

Nancy Peterson,
Relator,

vs.

Electrolux Home Products Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed March 1, 2021
Affirmed
Smith, Tracy M., Judge**

Department of Employment and Economic Development
File No. 38384073-3

Nancy Peterson, St. Cloud, Minnesota (pro se relator)

Electrolux Home Products Inc., St. Cloud, Minnesota (respondent employer)

Keri A. Phillips, Anne B. Froelich, Minnesota Department of Employment and Economic
Development, St. Paul, Minnesota (for respondent department)

Considered and decided by Frisch, Presiding Judge; Hooten, Judge; and Smith,
Tracy M., Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

Relator Nancy Peterson challenges the decision by an unemployment-law judge
(ULJ) dismissing her administrative appeal regarding her unemployment benefits as

untimely. Because the appeal was untimely, the ULJ had no jurisdiction to decide the case's merits. We affirm.

FACTS

Peterson worked for respondent Electrolux Home Products Inc. at its St. Cloud plant from 1988 until the plant closed in November 2019. In January 2020, Peterson found work as a scheduler at CentraCare St. Cloud Hospital, but she left that job on March 9 because she found it difficult to hear while talking on the phone due to the noise from other schedulers in the office.

On March 18, 2020, Peterson applied for unemployment benefits. On April 6, 2020, respondent Department of Employment and Economic Development (DEED) sent Peterson a determination of ineligibility that temporarily reduced her benefits by \$721.60 per week. The reduction in benefits was based on Peterson's severance pay from Electrolux. The letter stated that "[t]his determination will become final unless an appeal is filed by Monday April 27, 2020."

On May 5, 2020, DEED issued a determination of ineligibility on the issue of Peterson's separation from CentraCare, stating that Peterson was ineligible for unemployment compensation because she quit.

Peterson filed an appeal on May 11, 2020. In it, she challenged the Electrolux determination of ineligibility. When asked why she filed her appeal late, she explained that she thought that she was not eligible for unemployment compensation until her severance ended in March.

The ULJ dismissed Peterson's appeal on May 12, 2020, because Peterson did not timely appeal the Electrolux determination of ineligibility. Peterson requested

reconsideration, and the ULJ affirmed that Peterson’s appeal was untimely, explaining that the statutory time period for an appeal is “absolute, regardless of any mitigating circumstances.”

Peterson’s certiorari appeal follows.

DECISION

“[A] ULJ’s decision to dismiss an appeal as untimely is a question of law, subject to de novo review.” *Godbout v. Dep’t of Emp’t & Econ. Dev.*, 827 N.W.2d 799, 802 (Minn. App. 2013).

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) (2020). “The statute does not require actual notice for the appeal period to run.” *Johnson v. Metro. Med. Ctr.*, 395 N.W.2d 380, 382 (Minn. App. 1986). The ULJ must dismiss untimely appeals for lack of jurisdiction. *Cole v. Holiday Inns, Inc.*, 347 N.W.2d 72, 73 (Minn. App. 1984); accord Minn. Stat. § 268.105, subd. 1a(c) (2018) (“The unemployment law judge 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.”). The statutory time period “is absolute and unambiguous,” *Semanko v. Dep’t of Emp’t Servs.*, 244 N.W.2d 663, 666 (Minn. 1976), and “there are no statutory provisions for extensions or exceptions to the appeal period,” *Kennedy v. Am. Paper Recycling Corp.*, 714 N.W.2d 738, 740 (Minn. App. 2006).

Thus, when a ULJ dismisses an appeal as untimely, the only question before us is whether the ULJ erred by dismissing the appeal and we cannot address the appeal’s merits.

Christgau v. Fine, 27 N.W.2d 193, 199 (Minn. 1947). Nor can we grant equitable relief to permit an untimely appeal. *Cole*, 347 N.W.2d at 73.

We conclude that the ULJ did not err by dismissing the appeal because Peterson appealed the Electrolux determination of ineligibility outside of the 20-day statutory window. *See* Minn. Stat. § 268.101, subd. 2(f). The April 6, 2020 Electrolux determination of ineligibility properly informed Peterson of her right to appeal by April 27, 2020.¹ Peterson did not file her appeal until May 11, 2020.

Peterson argues that the ULJ erred because the decision was made without allowing Peterson the “chance to explain [her] side at the hearing.” But the ULJ was statutorily required to dismiss the appeal as untimely; there is no exception to this requirement. *See Kennedy*, 714 N.W.2d at 740. Peterson’s late filing divested the ULJ of jurisdiction to consider her appeal. *See Cole*, 347 N.W.2d at 73 (“An untimely appeal must be dismissed . . . for lack of jurisdiction.”).

We note that this decision applies only to Peterson’s appeal of the determination of ineligibility related to her employment with Electrolux. As DEED acknowledged in its appellate brief, Peterson’s May 11 appeal is also properly construed as an appeal of the May 8, 2020 determination of ineligibility related to her employment at CentraCare and Peterson timely appealed that determination.

Affirmed.

¹ Because April 26, 2020, fell on a Sunday, the deadline to appeal moved to Monday, April 27.