

*This opinion is nonprecedential except as provided by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
A21-0100**

Suleiman Iraad,
Relator,

vs.

Amazon.com Services LLC,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed July 19, 2021
Reversed and remanded
Florey, Judge**

Department of Employment and Economic Development
File No. 42890304-3

Suleiman Iraad, Prior Lake, Minnesota (pro se relator)

Amazon.Com Service LLC, c/o Corporate Cost Control Inc., Londonderry, New
Hampshire (respondent employer)

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

Considered and decided by Florey, Presiding Judge; Jesson, Judge; and Smith,
Tracy M., Judge.

NONPRECEDENTIAL OPINION

FLOREY, Judge

Relator Suleiman Iraad applied for unemployment benefits. DEED determined that he was ineligible for benefits. Iraad appealed the decision to an unemployment-law judge (ULJ) one day after the statutory deadline to appeal had passed. The ULJ dismissed the appeal because it was untimely but did not consider whether Iraad had *substantially complied* with the statutory deadline—the standard established by an executive order issued in conjunction with the COVID-19 peacetime emergency. We reverse and remand for the ULJ to consider whether Iraad substantially complied with the deadline, and consequently, whether the ULJ should have considered the merits of his appeal.

FACTS

Iraad worked for respondent Amazon Services LLC from 2019 to 2020. Amazon fired Iraad, alleging that Iraad did not appear for work for several days without notification. When Iraad applied for unemployment benefits, DEED determined that he was ineligible. The determination of ineligibility that DEED mailed to Iraad clearly indicated that the deadline to appeal the determination was October 19, 2020.

Iraad appealed the determination of ineligibility on October 20, 2020. Iraad explained why his appeal was late as follows: “I had issues before I couldn’t do it but now it let me do it.” A ULJ dismissed Iraad’s appeal as untimely, observing that the statutory deadline to appeal determination of ineligibility is absolute, regardless of mitigating circumstances.

Iraad timely requested reconsideration of the ULJ's decision. He claimed that he was unaware of the appeal deadline because it was his first time applying for unemployment benefits. The ULJ considered Iraad's request but affirmed the dismissal as untimely, again observing that the appeal deadline was "absolute."

This appeal follows.

DECISION

At issue in this appeal is whether the ULJ erred by dismissing Iraad's appeal based solely on the fact that Iraad appealed one day after the statutory deadline to appeal had expired. We review de novo a ULJ's decision to dismiss an appeal as untimely. *In re Murack*, 957 N.W.2d 124, 127 (Minn. App. 2021). We may reverse or remand a ULJ's decision if it prejudiced the relator's substantial rights and the decision was affected by an error of law. Minn. Stat. § 268.105, subd. 7(d) (2020).¹

A person applying for unemployment benefits may appeal a determination that he is ineligible to receive benefits within 20 days of the date that the determination is mailed to the applicant. Minn. Stat. § 268.101, subd. 2(f) (2020). Under ordinary circumstances, Minnesota appellate courts have held that the statutory appeal deadline is "absolute" and that the ULJ "must" dismiss an untimely appeal for lack of jurisdiction. *Murack*, 957 N.W.2d at 127 (quotation omitted).

¹ We observe that Iraad's appellate brief is inadequately briefed and that he is only entitled to relief if "prejudicial error is obvious upon mere inspection." *See Schoepke v. Alexander Smith & Sons Carpet Co.*, 187 N.W.2d 133, 135 (Minn. 1971). Ultimately, we conclude that the ULJ did err, that the error is obvious upon mere inspection, and that it is appropriate to consider the appropriate relief for that error. *See id.*

But on March 16, 2020, Governor Tim Walz issued an emergency executive order that suspended strict compliance of Minnesota Statutes chapter 268. *See id.* at 128-29. In *Murack*, we concluded that one effect of the order was to suspend strict compliance with the 20-day deadline provided by Minn. Stat. § 268.101, subd. 2(f). Considering the order, we concluded that an applicant need only substantially comply with the deadline while the executive order was in effect. *Id.* at 130. We observed that an applicant may demonstrate substantial compliance by showing that he “has a reasonable explanation for failing to strictly comply, has taken steps to comply with the statute, and has generally complied with the statute’s purpose; and there is reasonable notice and a lack of prejudice to other parties.” *Id.* at 130.

The executive order was in effect when Iraad applied for, and DEED denied him, unemployment benefits. Thus, the ULJ’s decision to dismiss Iraad’s appeal was affected by an error of law—the appeal deadline was not absolute, as the ULJ concluded, and the ULJ should have considered whether Iraad substantially complied with the deadline. *Cf.* Minn. Stat. § 268.105, subd. 7(d) (allowing us to reverse if the ULJ’s decision was “affected by an error of law”).

Still, to prevail on appeal to us, a relator must establish that the ULJ’s decision was prejudicial. *See* Minn. Stat. § 268.105, subd. 7(d) (allowing us to reverse, remand, or modify a ULJ’s decision if the ULJ erred and the error prejudiced the relator’s substantial rights). DEED argues that we should affirm because the ULJ’s decision did not prejudice Iraad, asserting that the record clearly demonstrates that Iraad did not substantially comply with the statutory deadline. We disagree with DEED’s position on the clarity of the record.

Evidence in the record could support either a finding that Iraad did substantially comply with the appeal deadline or that he did not. Notably, when Iraad initially appealed the determination of ineligibility, he stated that he filed his appeal one day late because he “had issues” that prevented him from timely appealing but that “it” eventually “let [him] do it.” He later arguably contradicted that statement when he claimed that he appealed one day late because he was not aware of the deadline. Given the ambiguity in the record and the lack of findings by the ULJ concerning (1) Iraad’s efforts to comply with the statutory deadline; (2) the reasonableness of Iraad’s explanation for filing his appeal one day late; (3) whether Iraad generally complied with the statute’s purpose; and (4) the level of notice and prejudice to other parties, we cannot conclude that Iraad was not prejudiced by the ULJ’s error of law. *See Murack*, 957 N.W.2d at 130.

We reverse the ULJ’s decision and remand for the ULJ to consider whether Iraad substantially complied with the statutory appeal deadline. Like in *Murack*, we offer no opinion on whether Iraad substantially complied with the deadline. *Cf. Murack*, 957 N.W.2d at 131.

Reversed and remanded.