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Minn. Stat. § 480A.08, subd. 3 (2008).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A08-1395**

Daniel R. Coleman,  
Relator,

vs.

Minneapolis Special School District #001,  
Respondent,

Department of Employment and Economic Development,  
Respondent.

**Filed August 4, 2009  
Affirmed  
Peterson, Judge**

Department of Employment and Economic Development  
File No. 20607652-3

Daniel R. Coleman, 4710 Humboldt Avenue North, Apartment 7, Minneapolis, MN  
55430-3752 (pro se relator)

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respondent employer)

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Department of Employment and Economic Development)

Considered and decided by Connolly, Presiding Judge; Peterson, Judge; and  
Stauber, Judge.

## UNPUBLISHED OPINION

**PETERSON**, Judge

Relator challenges the determination by an unemployment-law judge (ULJ) that his appeal was untimely, arguing that the ULJ erred in rejecting the authenticity of a claimed copy of the appeal statement that allegedly had been submitted online. We affirm.

### FACTS

Relator Daniel R. Coleman filed a claim for unemployment benefits with respondent Department of Employment and Economic Development (DEED). A department adjudicator determined that relator was discharged for misconduct and, therefore, was ineligible for unemployment benefits. Under the heading “Right of Appeal,” the determination of ineligibility states:

This determination will become final unless an appeal is filed by Wednesday, April 2, 2008. The ‘filed’ date is the postmark date, if mailed, or the date received by the Unemployment Insurance Program, if sent by fax or internet. The recommended method for filing an appeal is by internet. You can do so by logging in to your account at [www.uimn.org](http://www.uimn.org) and following the prompts.

A department record shows that relator filed his appeal on April 18, 2008.

At the hearing before the ULJ, relator testified that he read and understood the determination of ineligibility. He specifically testified that he understood that an appeal had to be filed by April 2, 2008. Relator testified that he filed an appeal by internet a day or two before the deadline. After the hearing, relator faxed the ULJ a document dated

March 28, 2008, and titled “Answer to appeal.” The document is addressed to the ULJ by name.

The ULJ dismissed relator’s appeal as untimely, and relator filed a request for reconsideration. In support of the request for reconsideration, relator submitted a statement by his sister stating that she had submitted relator’s appeal by internet on March 28, 2008. The statement states that when the sister submitted the appeal online, she copied and pasted a copy of the appeal letter and e-mailed it to herself. The attached e-mail is dated March 28, 2008, and states the grounds for relator’s appeal. But the e-mail does not indicate that the information was provided to DEED.

The ULJ affirmed the dismissal of relator’s appeal. This certiorari appeal followed.

## **D E C I S I O N**

This court may affirm the decision of a ULJ or remand the case for further proceedings, or it may reverse or modify the decision if the substantial rights of the litigant may have been prejudiced because the findings, conclusion, or decision are affected by an error of law or unsupported by substantial evidence. Minn. Stat. § 268.105, subd. 7(d) (2006); *Ywsyf v. Teleplan Wireless Servs., Inc.*, 726 N.W.2d 525, 529 (Minn. App. 2007). “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).

An appeal of a determination of ineligibility must be filed within 20 calendar days after the department sends the determination. Minn. Stat. § 268.101, subd. 2(f) (Supp.

2007). A determination not appealed within 20 days becomes final. *Id.* The letter of the law must be followed in applying clear and unambiguous statutory time limits for appeal. *Harms v. Oak Meadows*, 619 N.W.2d 201, 203 (Minn. 2000). “When an appeal from a disqualification determination is untimely, it must be dismissed for lack of jurisdiction.” *Kennedy*, 714 N.W.2d at 740.

The order that dismisses relator’s appeal as untimely states:

In this case, after the hearing, [relator] was allowed to submit an appeal statement he claims he filed with the department within the required 20 calendar days. The appeal statement, however, does not show that it was ever admitted or received by the department. Furthermore, the statement is addressed to the Unemployment Law Judge, which calls into question its authenticity because, prior to his appeal, an Unemployment Law Judge would not have been assigned to this matter.

And, the order affirming the dismissal order states:

After the hearing on May 8, 2008, [relator] faxed the unemployment law judge a copy of the appeal statement he contends was submitted online within the required time period for appeal. . . . In his request for reconsideration, [relator] submitted this same statement and contends that [his sister] copied and pasted this statement in her personal e-mail after she submitted it online to the Department. However, the appeal statement that was submitted shows no evidence that it was part of an e-mail, which calls into question its authenticity.

Relator’s argument on appeal goes to the credibility of the evidence presented in support of his claim that he appealed the determination of ineligibility within the 20-day time limit. The ULJ provided valid reasons for not crediting the evidence provided by relator. And we defer to the ULJ’s credibility determinations. *Nichols v. Reliant Eng’g & Mfg.*, 720 N.W.2d 590, 594 (Minn. App. 2006). The ULJ did not err in relying on the

department record showing that relator's appeal was submitted on April 18, 2008, and dismissing the appeal as untimely.

Relator also addresses the merits of the misconduct determination. Because the ULJ dismissed the appeal as untimely, the merits are not properly before this court.

**Affirmed.**