

Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2008-333 VERMONT SUPREME COURT  
FILED IN CLERK'S OFFICE

FEBRUARY TERM, 2009

FEB 4 2009

Suzanne Amon	}	APPEALED FROM:
	}	
v.	}	Employment Security Board
	}	
Department of Labor	}	DOCKET NO. 04-08-091-01

In the above-entitled cause, the Clerk will enter:

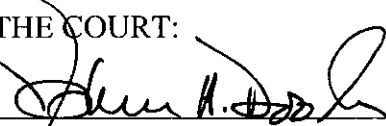
Claimant appeals the Employment Security Board's decision adopting an appeals referee's ruling that she filed an untimely appeal of the claims adjudicator's denial of unemployment benefits. We affirm.


On March 17, 2008, the claims adjudicator issued a decision denying claimant's request for unemployment benefits, finding that claimant's employer had discharged her for misconduct connected with her work. On April 17, claimant filed a notice of appeal by e-mail, as allowed by Board rules, but thirty-one days after the issuance of the adjudicator's decision. On May 13, following a telephonic hearing, the appeals referee dismissed the appeal as untimely filed. The Board upheld that decision.

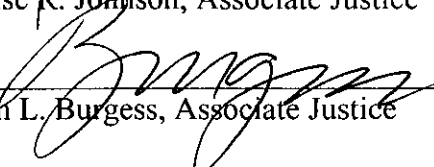
On appeal, claimant argues that this Court should overrule the Board's decision because her late notice of appeal was an accidental and minor error. This argument is unavailing. Vermont's unemployment compensation statute states as follows: "Any interested party may, within 30 days after notice thereof, file an appeal from the [claims adjudicator's] determination with an appeals referee employed by the commissioner." 21 V.S.A. § 1348(a). "Regardless of the manner of service, appeal periods shall commence to run from the date of the determination or decision rendered." 21 V.S.A. § 1357. We have held that the Board does not have the authority to extend this statutory appeal period. Allen v. Vt. Employment Sec. Bd., 133 Vt. 166, 169-70 (1975); Trask v. Dep't of Employment & Training, 170 Vt. 589, 590 (2000) (mem.) (declining "to carve out a fairness-based public policy exception to Allen"). Accordingly, there is no basis to overturn the Board's decision.

Affirmed.

BY THE COURT:

  
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John A. Dooley, Associate Justice

  
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Denise R. Johnson, Associate Justice

  
\_\_\_\_\_  
Brian L. Burgess, Associate Justice