

IN THE SUPREME COURT OF THE STATE OF NEVADA

BENJY L. GARDNER,
Appellant,
vs.
WARRANTY USA,
Respondent.

No. 41108

FILED

AUG 15 2003

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

This is a proper person appeal from a district court order granting respondents' motion to dismiss appellant's petition for judicial review as untimely.¹ We have reviewed the record, and we conclude that the district court did not err. The appeals officer entered his decision affirming respondent's denial of appellant's two workers' compensation claims on August 16, 2002, and mailed copies of the decision to appellant and his attorney, separately, on August 19, 2002. Appellant had until September 23, 2002, to petition the district court for review,² but he did not file his petition until December 30, 2002. Because the time for filing a judicial review petition is mandatory and jurisdictional, and appellant's


¹We direct this court's clerk to amend the caption on the court's docket to conform with this order's caption.

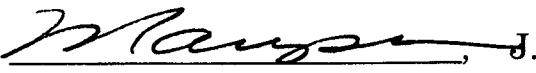
²See NRS 233B.130(2)(c) (petition for judicial review must be filed within 30 days after service of final administrative decision); NRCP 6 (adding 3 days when service is by mail, and extending the period until the next judicial day when the last day falls on a weekend or holiday).

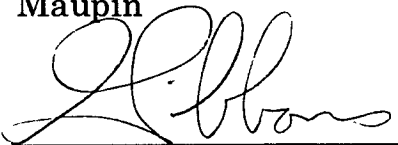
petition was untimely, the district court lacked subject matter jurisdiction over appellant's petition.³ Dismissal was mandatory.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Rose


_____, J.
Maupin


_____, J.
Gibbons

cc: Hon. Brent T. Adams, District Judge
Benjy L. Gardner
David H. Benavidez
Washoe District Court Clerk

³Kame v. Employment Security Dep't, 105 Nev. 22, 769 P.2d 66 (1989).