

**COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS**

Middlesex, ss.

Maria Rezende,
Petitioner,

Docket No.: LB-25-0508

v.

Office of the Attorney General, Fair Labor Division,
Respondent.

Appearances:

For Petitioner: Clark Colton

For Respondent: Shannan Leelyn, Esq.

Administrative Magistrate:

Eric Tennen

ORDER GRANTING MOTION TO DISMISS

The Fair Labor Division (FLD) issued several citations to Maria Rezende and sent these citations to her via mail and email. Ms. Rezende received the citations but did not appeal to the Fair Labor Division nor the Division of Administrative Law Appeals (DALA) within the ten-day limitation prescribed by statute. The FLD now moves to dismiss her appeal as untimely. Ms. Rezende opposes the motion.

The facts surrounding Ms. Rezende's appeal notice are not in dispute. The FLD received a complaint about Ms. Rezende for failure to pay wages. After an investigation, the FLD issued four citations to Ms. Rezende on July 21, 2025, which they sent to her by email and by mail. *See* Exs. A, E, F & G. The issued citations included a paragraph that informed Ms. Rezende of her right to appeal and warned: "[y]ou have 10 calendar days from the date these were emailed to you to appeal these citations. Any appeal must be filed with both the [FLD] and the Division of

Administrative Law Appeals.” Ex. A. Since the citations were issued on July 21, 2025, the ten-day limitation required Ms. Rezende to have filed her appeal by July 31, 2025.

Around this time, Ms. Rezende had some medical and personal issues. In early July 2025, Ms. Rezende was hospitalized after breaking her foot and ankle. Then, after receipt of the citations, there was a death in Ms. Rezende’s family which required her to fly to Brazil. She departed on August 8, 2025. On the same day, she gave the notice of the citations to a friend and asked if he could handle them for her. (Petitioner’s Memorandum in opposition.) He then filed an appeal on Ms. Rezende’s behalf with DALA on August 31, 2025, and with the Attorney General on September 2, 2025. (Ex. C.)

The FLD now moves to dismiss this appeal for lack of jurisdiction. *See* 801 Code of Mass. Regs. § 1.01(7)(g)(3). “Any person aggrieved by any citation or order issued pursuant to this subsection may appeal said citation...within ten days of the receipt of the citation or order.” G.L. c. 149, § 27C(b)(4). A statute-imposed appeal period “constitutes a jurisdictional prerequisite to a [tribunal’s] authority to consider any matter on appeal,” and this rule applies to FLD citations appealed to DALA. *Schwartz v. Fair Labor Div.*, No. LB-19-379 (Div. Admin. Law App. Dec. 16, 2019). Thus, failure to timely file a notice of appeal requires dismissal. *Mr. Home Inc. v. Fair Labor Div.*, LB-24-0511, 2024 WL 4527809, at *1.

FLD issued citations to the Petitioner via email and mail on July 21, 2025, both appropriate methods of delivery. *Sweeney and Mr. Home, Inv. v. Fair Labor Div.*, LB-24-0511 (Div. Admin. Law App. Oct. 8, 2024). The petitioner does not dispute that she received the citations on this day. Nor does she dispute she failed to file them within the 10-day window, with either DALA or the Attorney General’s office. Rather, the petitioner argues she should be excused

because she could not respond in time due to her medical condition. Unfortunately, she seeks equitable relief unavailable in these circumstances. *See Rush v. Mass. Teachers' Ret. Sys*, CR-14-174 (Contributory Ret. App. Bd. Nov. 28, 2018); *Cooley, et al. v. Fair Labor Div.*, LB-08-502 & 504 (Div. Admin. Law. App. Aug. 13, 2009.)

Ms. Rezende next claims that the death in her family impacted her ability to timely appeal. While I am sympathetic to Ms. Rezende's situation, she departed on August 8, 2025, after the deadline for filing the appeal had passed.

Finally, she disputes the validity of the citations themselves. But those substantive arguments are reserved for appeals within DALA's jurisdiction. This case is not one of those.

Accordingly, this matter is hereby **dismissed**.

Dated: December 17, 2025

Eric Tennen

Eric Tennen, Magistrate
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