

**COURT OF APPEALS
DECISION
DATED AND FILED**

April 29, 1999

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

No. 98-3140

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

MARVA HARRIS,

PLAINTIFF-APPELLANT,

V.

**LABOR & INDUSTRY REVIEW COMMISSION, AND
AMERICAN MOTORS CORPORATION N/K/A
CHRYSLER MOTORS COMPANY, SELF-INSURER,**

DEFENDANTS-RESPONDENTS.

APPEAL from an order of the circuit court for Dane County:
RICHARD J. CALLAWAY, Judge. *Affirmed.*

Before Dykman, P.J., Eich and Vergeront, JJ.

PER CURIAM. Marva Harris appeals a circuit court order that refused to reconsider the dismissal of her attempted appeal of an administrative decision for lack of subject matter jurisdiction. Harris contends the circuit court erred when it ruled her complaint had been filed seven minutes too late.

Regardless of the merit of that argument, we affirm the circuit court's decision on the alternate ground that Harris failed to timely serve the respondents with copies of the summons and complaint.

BACKGROUND

On June 30, 1998, the Labor and Industry Review Commission (LIRC) issued a final order denying Harris's application for additional worker's compensation benefits from her employer, the American Motors Corporation (AMC). Attached to the Commission's order was an appellate rights form outlining the procedures to follow in order to obtain judicial review of its determination. On July 30, 1998, at 4:37 p.m., Harris filed a complaint in Dane County Circuit Court seeking review of LIRC's determination. LIRC was served with a copy of the summons and complaint on August 3, 1998, and AMC was served on August 6, 1998. Upon the respondents' motions, the circuit court dismissed the action for lack of subject matter jurisdiction, reasoning that the complaint had been filed after the normal close of business hours on the last day of the statutory deadline for filing.

STANDARD OF REVIEW

Whether a circuit court lacks subject matter jurisdiction is a question of law, which we review de novo. *Gomez v. LIRC*, 153 Wis.2d 686, 689, 451 N.W.2d 475, 476 (Ct. App. 1989).

ANALYSIS

Harris challenges the circuit court's order of dismissal on the basis that her complaint was in fact filed and stamped on the day it was due. The respondents counter that, even if the complaint was timely filed, it was not timely

served. Harris objects to the respondents' argument and much of their supporting documentation as "outside of the record," apparently because they were not cited by the circuit court as the reason for its action. However, we note that each of the documents mentioned in the respondents' brief is properly part of the record on appeal. *See* RULE 809.15(1)(a), STATS. Furthermore, the principle of efficient judicial administration allows this court to affirm proper decisions by the circuit court, even when they were reached for the wrong reasons. *State v. Holt*, 128 Wis.2d 110, 124, 382 N.W.2d 679, 687 (Ct. App. 1985). We must therefore examine the entire record to determine whether the circuit court had any source of authority for the action which it took.

Section 102.23(1), STATS., provides that a party adversely affected by a worker's compensation determination may seek judicial review by filing a summons and complaint in the circuit court *and* serving copies of the summons and complaint upon the commissioner or its designated agent within thirty days of the Commission's order. The failure to properly accomplish service within the statutory period is a fatal defect which deprives the circuit court of jurisdiction to review LIRC's decision. *Gomez*, 153 Wis.2d at 691, 451 N.W.2d at 477.

Here the record shows that LIRC was served on August 3, 1998, and AMC was served on August 6, 1998, both beyond the thirty-day time period set forth in § 102.23(1), STATS. The circuit court properly dismissed the complaint because it lacked jurisdiction to review LIRC's determination even if the complaint was timely filed.

By the Court.—Order affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)5, STATS.

