

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

August 15, 1995

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.

NOTICE

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

No. 94-1668

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

CHRISTINA PATTERSON,

Petitioner-Appellant,

v.

LABOR AND INDUSTRY REVIEW COMMISSION,

Respondent-Respondent.

APPEAL from an order of the circuit court for Milwaukee County:
LAURENCE C. GRAM, JR., Judge. *Affirmed.*

Before Wedemeyer, P.J., Sullivan and Fine, JJ.

PER CURIAM. Christina Patterson appeals, *pro se*, from an order affirming the decision of the Labor and Industry Review Commission (LIRC) under the Wisconsin Fair Employment Act, §§ 111.31-111.395, STATS., terminating her employment because of unsatisfactory performance, attendance, and ability to get along with others rather than because of race.

Patterson claims her employment was illegally terminated due to her race. Because the record contains substantial evidence to support LIRC's decision that Patterson's employment was terminated due to unsatisfactory performance, attendance, and ability to get along with others, we affirm.

BACKGROUND

On April 29, 1991, the City of Milwaukee hired Patterson, a black female, as a Laboratory Helper I in the Bureau of Laboratories, Department of Health. Her job was to wash and sterilize laboratory glassware, sort glassware, and then reshelve the glassware. Pursuant to the city's rules, she was placed on a six-month probationary period. During this time, she received a verbal reprimand for taking co-worker Linda Dix's labcoat without permission. Dr. Gradus, the director of the laboratory, informed her that her probationary period was being extended for three months due to her confrontation with her co-workers. On December 1, 1990, Dr. Singh, the Chief Microbiologist of the laboratory, in a report on Patterson's probationary services, observed that she "constantly ignores the supervisor's instructions concerning the necessity of improving the quality of her performance." Dr. Singh further opined that the quality of Patterson's work and her attendance and punctuality were below job requirements. In addition, her ability to get along with others was unsatisfactory.

On January 18, 1991, Dr. Gradus terminated Patterson for "unsatisfactory ability to cooperate with others and performance of assigned work." Patterson's co-worker, Dix, also was terminated for unsatisfactory quality of work and frequent unexcused work absences.

On February 18, 1991, Patterson filed a race discrimination complaint with DILHR against the city. A hearing was conducted before an administrative law judge. Patterson testified and called two witnesses. At the conclusion of this testimony, the judge granted the city's motion to dismiss. In its decision, the ALJ concluded that "Patterson's supervisors decided to terminate her ... because they believed her performance, attendance and ability to get along with others was unsatisfactory. Patterson's race was not a factor in the decision to terminate her."

Patterson petitioned for a review of the ALJ's decision by LIRC. The Commission affirmed the ALJ's decision. Patterson then commenced this proceeding under § 111.395 and ch. 227, STATS., for judicial review of the Commission's decision. On May 10, 1994, the trial court affirmed the Commission's decision. Patterson now appeals.

DISCUSSION

We have reviewed the briefs of the parties and considered the merits of the appeal at conference. Having done so, we conclude that the trial court's memorandum decision and order dated May 10, 1994, includes a proper review of the evidence, applies the proper legal standards to the relevant facts and reaches a correct decision. We therefore incorporate that decision and order into this order and summarily affirm on that basis.¹ See 133 Wis.2d 1, 19-20 (1986) (the appellate court's Internal Operating Procedures allow it to adopt the trial court's decision where appropriate). It is therefore ordered that the trial court's order is summarily affirmed.

By the Court. – Order affirmed.

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

¹ A copy of the decision and order is attached as Exhibit A to this opinion.

AN EXHIBIT HAS BEEN ATTACHED TO THIS
OPINION. THE EXHIBIT CAN BE OBTAINED UNDER SEPARATE
COVER BY CONTACTING THE WISCONSIN COURT OF APPEALS.

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