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DISTRICT I

March 11, 2014

To:

Hon. Paul R. Van Grunsven
Circuit Court Judge
Milwaukee County Courthouse
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Milwaukee, WI 53233

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Joan T. Johnson
2750 Mimosa Ave
Camden, AR 71701

You are hereby notified that the Court has entered the following opinion and order:

2013AP667

Joan T. Johnson v. Labor and Industry Review Commission,
G2 Secure Staff, LLC and Rodney Zankl (L.C. #2012CV10133)

Before Curley, P.J., Fine and Brennan, JJ.

Joan T. Johnson appeals the circuit court's order dismissing her action. She sought review of the Labor and Industry Review Commission's determination that she was not entitled to unemployment compensation. The issue is whether Johnson timely commenced judicial review of the Commission's decision. After review of the briefs and record, we conclude that this appeal is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. We conclude that Johnson did not timely commence her action in the circuit court. Therefore, we summarily affirm.

A party seeking judicial review of a Commission decision denying a claim for unemployment insurance benefits must commence an action in the circuit court within thirty days after the date of the Commission's decision. *See* WIS. STAT. § 102.23(1)(a). The party seeking review must file both a summons and a complaint with the clerk of the circuit court and serve an authenticated copy of the summons and a copy of the complaint on "a commissioner or agent authorized by the commission to accept service." WIS. STAT. §§ 102.23(1)(a) and (b). The thirty-day period begins to run when the Commission's decision is mailed to the party's last-known address. *See* WIS. STAT. § 108.09(7)(a). If an appeal to the circuit court is not brought within the mandatory time limits, the circuit court must dismiss the action because it lacks competency to proceed. *See Currier v. DOR*, 2006 WI App 12, ¶23, 288 Wis. 2d 693, 706, 709 N.W.2d 520, 527.

The Commission mailed its decision to Johnson on Monday, March 5, 2012. Johnson did not file a summons and complaint with the clerk of the Milwaukee County Circuit Court until September 14, 2012, well beyond the thirty-day time limit. Moreover, Johnson did not serve an authenticated copy of her summons and a copy of her complaint on the Commission. The circuit court therefore lacked competency to consider Johnson's appeal from the Commission's decision because Johnson did not timely commence her action.

IT IS ORDERED that the order of the circuit court is summarily affirmed. *See* WIS. STAT. RULE 809.21.

Diane M. Fremgen
Clerk of Court of Appeals