



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT IV

May 17, 2018

To:

Hon. Frank D. Remington
Circuit Court Judge
215 S. Hamilton St., Br. 8, Rm 4103
Madison, WI 53703

William Sherlin Sample
Labor & Industry Review Commission
P.O. Box 8126
Madison, WI 53708-8126

Carlo Esqueda
Clerk of Circuit Court
215 S. Hamilton St., Rm. 1000
Madison, WI 53703

Eric J. Volkman
Department of Workforce Development
Bureau of Legal Affairs
P.O. Box 8942
Madison, WI 53708-8942

Andrew John Rubsam
Department of Workforce Development
P.O. Box 8942
Madison, WI 53708-8942

Michael A. Pharo
P.O. Box 421
Mount Horeb, WI 53572

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

2017AP590

Michael A. Pharo v. State of Wisconsin Labor and Industry Review Commission and State of Wisconsin Department of Workforce Development (L.C. # 2016CV940)

Before Lundsten, P.J., Sherman and Fitzpatrick, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Michael Pharo, pro se, appeals a circuit court order denying his petition for review of two decisions of the Labor and Industry Review Commission. Pharo argues that LIRC erred in upholding the Department of Workforce Development's determinations that Pharo was personally liable for delinquent unemployment taxes and fees assessed against two companies with which he was associated. Based upon our review of the briefs and record, we conclude at

conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2015-16).¹ For the reasons discussed below, we affirm.

This appeal arises out of Pharo's involvement with two businesses in Wisconsin: the Pharo Company and American Alarm and Telephone Corporation. We refer to these entities collectively as "the companies." Several years ago, the department determined that each of these companies was an "employer" required to comply with Wisconsin's unemployment insurance laws as set forth in WIS. STAT. Chapter 108. The companies failed to comply with their reporting and payment obligations under Chapter 108. Accordingly, between 1996 and 2010, the department sent the companies numerous initial determinations of unemployment tax liability pursuant to WIS. STAT. § 108.10(1). Upon receiving an initial determination, an employer may request an evidentiary hearing before an appeal tribunal, which can reverse or modify the department's initial determination. Secs. 108.10(1) and (2). In the absence of a timely appeal, the department's initial determinations become conclusive. Sec. 108.10(6). The companies did not appeal the department's determinations and, as a result, those determinations became conclusive.

Under Chapter 108, an officer with at least a twenty percent ownership interest may be held personally liable for a company's delinquent tax liabilities, together with interest and fees. *See* WIS. STAT. § 108.22(9). In 2006 and again in 2010, the department issued initial determinations that Pharo was personally liable for the delinquent taxes owed by the companies for various time periods. Pharo timely appealed these determinations, but they were largely

¹ All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

affirmed after a hearing before the department's appeal tribunal. Pharo then appealed these determinations to LIRC, which largely affirmed the tribunal's decisions. Pharo next filed an action in circuit court seeking review of LIRC's decisions. After the circuit court affirmed LIRC's decisions, Pharo filed this appeal.²

“When there is an appeal from a LIRC determination, we review LIRC's decision rather than the decision of the circuit court.” *Operton v. LIRC*, 2017 WI 46, ¶18, 375 Wis. 2d 1, 894 N.W.2d 426 (quoting *Masri v. LIRC*, 2014 WI 81, ¶20, 356 Wis. 2d 405, 850 N.W.2d 298). According to WIS. STAT. § 102.23(1)(e), LIRC's decisions may be set aside only upon the following grounds:

1. That the commission acted without or in excess of its powers.
2. That the order or award was procured by fraud.
3. That the findings of fact by the commission do not support the order or award.

Sec. 102.23(1)(e).

Pharo fails to develop any cogent argument regarding any of these grounds for setting aside LIRC's decisions. His briefs appear to focus largely on the department's previous determinations that the companies owed unemployment taxes but, as explained above, these determinations became conclusive when the companies failed to file timely appeals. Pharo also argues generally that LIRC erred in holding him personally liable under WIS. STAT. § 108.22(9), but he does not specifically challenge any of LIRC's factual findings, nor does he cite any

² Pharo filed this appeal pursuant to WIS. STAT. § 108.09(7) (2013-14). This provision was recently amended, but the changes affect only actions filed after publication of the amendment. See 2017 S.B. 399, § 73 (published March 29, 2018).

authorities to support his contentions. Moreover, though Pharo discusses his own testimony and refers to what he believes “[t]he record will show,” Pharo does not cite to any portions of the record that support his assertions, as required by WIS. STAT. RULE 809.19(1)(e). Pro se litigants are bound by the same procedural rules as attorneys, and a reviewing court has no duty to “walk pro se litigants through the procedural requirements or to point them to the proper substantive law.” *Waushara Cty. v. Graf*, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992). Accordingly, we reject Pharo’s arguments as undeveloped. *See State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (courts need not consider undeveloped arguments).

Upon the foregoing reasons,

IT IS ORDERED that the order is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals