



Office of the Clerk
COURT OF APPEALS
OF WISCONSIN

DISTRICT III

Marilyn L. Graves
Clerk

December 19, 1980
Madison,

To: Priscilla Ruth MacDougal
Wisconsin Education Assn.
P. O. Box 8003
Madison, WI 53708

Keith D. Rodli
Steven B. Goff
Gaylord, Bye, Rodli, S.C.
113 East Elm Street
River Falls, WI 54022

✓ John D. Niemisto
Asst. Attorney General

Decision No. 12754-D

You are hereby notified that the Court entered the following order:

#80-913 WERC v. Joint School District No. 1, et al.

Before Donlin, P.J., Foley, J., and Dean, J.

The time for filing a notice of appeal in this case is governed by secs. 111.07(7) and 102.25, Stats., providing 30 days from the service of notice of entry of judgment. The notice of entry of judgment was given by mail April 11, 1980. The notice of appeal was not filed until May 16, 1980. Allowing three additional days for mailing under sec. 801.15(5), Stats., the notice of appeal was not timely filed to give this court jurisdiction over the appeal.

The appellants state that the notice of appeal was mailed on May 12, 1980, even though it was not received until May 16, 1980. The time of filing, not the time of mailing, controls the issue of the timeliness of the appeal. Boston Old Colony Ins. v. Int'l Rectifier Corp., 91 Wis.2d 813, 284 N.W.2d 93 (1979). The appellants further request that this court not penalize the appellants for an error made by their attorney. The filing of a timely notice of appeal is necessary to give this court jurisdiction over the appeal Rule 809.10(1)(b). This court lacks the authority to ignore defects of subject matter jurisdiction. Accordingly, the appeal must be dismissed.

Upon the foregoing reasons,

IT IS ORDERED that the appeal is dismissed.

Marilyn L. Graves
Clerk of Court of Appeals