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Marilyn L. Graves
Clerk

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

September 10, 1984

Madison, _____

To:

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Hon. Frederick P. Kessler
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You are hereby notified that the Court entered the following opinion and order:

Decision No.
17630-B

#84-1162 - Bodoh v. WERC and G & H Products, Inc.

Before Scott, C.J., Brown, P.J. and Nettesheim, J.

The respondent, G&H Products, Inc., has moved to dismiss the appeal as untimely. On July 18, 1984, this court ordered the record from the trial court. The record was received August 13, 1984. There is no response to the motion to dismiss.

On June 7, 1984, Lee Bodoh appealed the April 26, 1984, decision of the circuit court affirming a decision of WERC which held that Bodoh lacked standing to seek enforcement of an award under sec. 111.06(1)(8), Stats. The record contains a notice of entry of the decision dated May 4, 1984, and filed May 7, 1984. Although nothing in the record indicates when the notice of entry of the decision was served, the motion to dismiss states that the attorney for WERC mailed it to respondent G&H Products, Inc. on May 4, 1984. No response has been filed disputing this fact. We therefore conclude that the notice of entry of the decision was mailed on May 4, 1984. Nelson v. DNR, 90 Wis.2d 574, 575, 280 N.W.2d 334, 335 (Ct. App. 1979).

Orders of WERC are reviewable under Ch. 227, Stats. Section 111.395, Stats. Pursuant to sec. 227.21, Stats., an appeal to this court is "limited to 30 days from the notice

of entry of the judgment." The time for appeal commences to run from the date of the service of the notice of entry of the order or judgment. Nelson, supra, id. Pursuant to sec. 801.14(2), Stats., service by mail is complete upon mailing. Because service of the notice of entry was made by mail, Bodoh received an additional three days to appeal under sec. 801.15(5), Stats., Id. Thirty-three days after May 4, 1984, was June 6, 1984, which was a Wednesday. Because the notice of appeal was filed June 7, 1984, the appeal must be dismissed. Kohnke v. ILHR Department, 52 Wis.2d 687, 690-91, 191 N.W.2d 1, 3 (1971).

(New legislation 1983 Wisconsin Act 219 amending sec. 227.21, Stats., is inapplicable because it became effective April 27, 1984, and the decision in this case was entered April 26, 1984.)

Upon the foregoing reasons,

IT IS ORDERED that the appeal is dismissed.

Marilyn L. Graves
Clerk of Court of Appeals