

**COURT OF APPEALS
DECISION
DATED AND FILED**

January 3, 2014

Diane M. Fremgen
Clerk of Court of Appeals

NOTICE

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

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2013AP1006

Cir. Ct. No. 2012CV3454

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT II**

CITY OF WAUKESHA,

PLAINTIFF-RESPONDENT,

V.

STEPHEN GREEN,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Waukesha County:
DONALD J. HASSIN, JR., Judge. *Affirmed.*

¶1 BROWN, C.J.¹ Last November the Waukesha Municipal Court issued a municipal court judgment against Stephen Green in relation to violation of municipal building codes regarding a property he bought during foreclosure

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(b) (2009-10).

proceedings. Green tried to appeal the decision of the municipal court to the circuit court but failed to properly notify the City of Waukesha of the appeal as required by WIS. STAT. § 800.14 (2011-12).² The circuit court granted the City of Waukesha's motion to dismiss Green's appeal for lack of jurisdiction due to this failure, and Green reiterates the same argument he made in the circuit court, that the notice of appeal form and his receipt for paying the filing fee sufficed to give the City notice. We affirm the circuit court's dismissal of Green's appeal.

Facts

¶2 In July of 2011, the City of Waukesha filed a complaint against the Delta Rho Upsilon Alumni Association for continually violating municipal codes related to the maintenance and appearance of a building that the association had obtained in foreclosure proceedings. Green sought to buy the property and stipulated responsibility for repairing the blighted building. Green was then substituted in as defendant in the City's complaint and lost at the municipal court trial.

¶3 Green filed a notice of appeal from the decision of the Waukesha Municipal Court, but he failed to serve that notice on the City of Waukesha as required by WIS. STAT. § 800.14. The City moved to dismiss the appeal for lack of jurisdiction due to Green's failure to serve notice on the City as required by § 800.14. In response, Green argued that the notice of appeal form given him by the Waukesha Municipal Court implied that the clerk would serve the City for

² All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

him. He also argued that his receipt for payment for filing the notice of appeal proved he had given notice to the City.

¶4 The circuit court granted the City’s motion and dismissed Green’s appeal. The court found that although the appeal form failed to advise the appellant to notice the opposing party as well as the court, the fact that the form’s instructions were deficient did not permit Green to overlook the statutory requirements. The court also rejected Green’s argument that his receipt for paying the filing fee for the notice of appeal proved he had given notice to the City, because the receipt merely stated the defendant’s name and amount paid. It provided the City no indication of what Green was appealing.

Analysis

¶5 Green’s arguments on appeal are essentially the same as in circuit court. Green first argues that the notice of appeal form implied that completing the form fulfilled all of the statutory requirements, including serving notice on the City. In the alternative, he argues that his receipt for court filing fees states that notice was also given to the City.

¶6 The Wisconsin Constitution provides in relevant part: “Except as otherwise provided by law, the circuit court shall have original jurisdiction in all matters civil and criminal within this state and such appellate jurisdiction in the circuit as the legislature may prescribe by law.” WIS. CONST. art. VII, § 8. Hence, a circuit court has no jurisdiction over an appeal from a municipal court except “under the rules of appealability established by the legislature.” *Walford v. Bartsch*, 65 Wis. 2d 254, 258, 222 N.W.2d 633 (1974). “In order for there to be a right of appeal some statute must grant it and a party seeking to appeal must

follow the method prescribed in the governing statute.” *City of Mequon v. Bruseth*, 47 Wis. 2d 791, 794, 177 N.W.2d 852 (1970).

¶7 The relevant statute in this case is WIS. STAT. § 800.14, which grants appellate jurisdiction for municipal court decisions to the state circuit courts. To confer jurisdiction on the circuit court over an appeal from a municipal court’s decision under this statute, an “appellant shall appeal by giving the municipal judge *and other party* written notice of appeal within 20 days after the judgment or decision.” WIS. STAT. § 800.14(1) (emphasis added). Whether Green met this statutory requirement is a question of law reviewed de novo. *See Welin v. American Family Mut. Ins. Co.*, 2006 WI 81, ¶16, 292 Wis. 2d 73, 717 N.W.2d 690.

¶8 Green does not dispute that the statute is clear: the appellant must serve written notice on the other party, in this case the City of Waukesha. Green admitted to the circuit court that he, personally, did not serve anyone in the City Attorney’s office with notice of his appeal from the municipal court decision. He furthermore admitted he understood that he had to serve all parties with notice of appeal, to confer jurisdiction on the circuit court. Green also confirmed the circuit court’s observation that Green had experience in court proceedings and was “fairly familiar with many facets of the court system.”

¶9 In light of the clear statutory requirement of notice, and Green’s admissions, we see no basis for reversing the circuit court’s finding that Green failed to give the City of Waukesha notice of the appeal. Pro se litigants must comply with rules of procedure and substantive law, just like licensed attorneys. *See Waushara Cnty. v. Graf*, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992). Green admits that he did nothing more than file the notice of appeal and obtain a

receipt for his payment of the filing fee. Hence, he failed to serve notice on the City, and that failure deprived the circuit court of jurisdiction to review the municipal court decision. *See Walford*, 65 Wis. 2d at 258. The circuit court properly dismissed Green’s appeal.

¶10 We recognize that Green was proceeding pro se, and that the relevant portion of the form states: “You may satisfy all of the statutory requirements for an appeal and choose one of the three options of appeals explained below.” We agree with the circuit court’s observation that the form could be more “user friendly,” and in particular we find the form’s use of the word “may” confusing in context. Nonetheless, we see no way to read the form to mean that the municipal court will notify the City on behalf of the appellant. To the contrary, any reasonable person confronted with this form would be, at best, confused, and seek more information to ensure that “all of the statutory requirements” had been completed.

¶11 Green’s claim that “[t]he plain language of the form provided by the court implies that the only thing necessary to appeal a judgment from the Municipal Court is to complete and file the form” does not hold water. Green failed to notice the City of his appeal, and nothing in the form or the receipt he received when he filed the form gave the City notice or implied that the court itself would give the required notice. The circuit court properly dismissed his appeal because he did not fulfill the statutory requirements to give the court jurisdiction over it.

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)4.

