

320 S.W.3d 202
Missouri Court of Appeals,
Eastern District,
Division Four.

Renee Lynette LINHARDT, Respondent,
v.
DIRECTOR OF REVENUE, Appellant.

No. ED 94178. | Aug. 31, 2010.

Synopsis

Background: Driver brought action against Director of Revenue, challenging the suspension of her driving privileges for failure to maintain financial responsibility. The Circuit Court, St. Louis County, [Barbara Wallace, J.](#), dismissed and remanded for an administrative hearing. Director appealed.

[Holding:] The Court of Appeals, [Nannette A. Baker, J.](#), held that trial court did not have authority to remand the case following determination that driver had failed to exhaust her administrative remedies.

Affirmed in part and vacated in part.

West Headnotes (4)

[1] **Appeal and Error**

🔑 Jurisdiction of lower court

Courts

🔑 Supervisory jurisdiction

In cases where the trial court has exceeded its authority in entering an order or judgment, appellate court cannot consider the merits of the appeal, but has the jurisdiction to confine a trial court to its authority.

1 Cases that cite this headnote

[2] **Administrative Law and Procedure**

🔑 Exhaustion of administrative remedies

A trial court lacks authority unless available administrative remedies are exhausted before seeking judicial review of administrative action.

Cases that cite this headnote

[3] **Automobiles**

🔑 Trial de novo and determination

Trial court, considering driver's challenge to decision of the Director of Revenue, suspending her driving privileges for failure to maintain financial responsibility, did not have authority to remand the case to the Director for an administrative hearing following its determination that driver had failed to exhaust her administrative remedies, where driver did not request an administrative hearing and waived any available judicial action when she failed to exhaust available administrative remedies. [V.A.M.S. § 303.041.](#)

Cases that cite this headnote

[4] **Appeal and Error**

🔑 Rendering judgment which lower court should have rendered

On review, appellate court may dispense with the remand process and render the judgment that should have been rendered by the trial court only when the record and evidence on appeal give some degree of confidence in the reasonableness, fairness and accuracy of that disposition. [V.A.M.R. 84.14.](#)

1 Cases that cite this headnote

Attorneys and Law Firms

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Michael Kielty, St. Charles, MO, for Respondent.

Opinion

[NANNETTE A. BAKER](#), Judge.

Introduction

Renee Lynnette Linhardt (“Driver”) filed a petition against the Director of Revenue, State of Missouri (“Director”) in the Circuit Court of St. Louis County challenging the suspension of her driving privileges for failure to maintain financial responsibility pursuant to Section 303.025.¹ The trial court dismissed the petition for failure to exhaust all administrative remedies and remanded the case to the Director for an administrative hearing. The Director appeals only the trial court's remand for an administrative hearing. We affirm the trial court's dismissal of Driver's petition and vacate its order remanding the case to the Director.

Factual and Procedural Background

The relevant facts of this case, as can be discerned from the record on appeal and the Director's brief,² originated from an April 22, 2008 accident. As a result of the accident, the Department of Revenue notified *204³ Driver on January 13, 2009 that her driving privileges would be suspended for failure to maintain financial responsibility, a violation of Section 303.025.

On February 13, 2009, Driver filed a petition in the Circuit Court of St. Louis County against the Department of Revenue seeking reversal of the suspension and reinstatement of her driving privileges. The Director filed a motion to dismiss for failure to exhaust administrative remedies. The trial court granted the motion and remanded the case to the Director for an administrative hearing.

Discussion

[1] [2] The Director raises one point on appeal. Before we can address the merits of the appeal, we must determine our jurisdiction *sua sponte*. *In re Estate of Shaw*, 256 S.W.3d 72, 73 (Mo. banc 2008). In cases where the trial court has exceeded its authority in entering an order or judgment, we cannot consider the merits of the appeal, but we have the jurisdiction to confine a trial court to its authority. *Id.* at 77; see also *J.C.W. ex rel Webb v. Wyciskalla*, 275 S.W.3d 249, 253 (Mo. banc 2009). A trial court lacks authority unless “available administrative remedies are exhausted before seeking judicial review of administrative action.” *Renfro v.*

Dir. of Revenue, 810 S.W.2d 723, 726 (Mo.App. E.D.1991); See also *O'Donohue v. Dir. of Revenue, State of Mo.*, 896 S.W.2d 753, 754 (Mo.App. E.D.1995).

Section 303.041 provides the procedure for informing a driver of his or her suspension of license or registration for failure to maintain financial responsibility. Once the Director determines that the driver has not maintained financial responsibility, the Director mails a notice of suspension to the driver. Section 303.041.1. The notice of suspension specifies the statutory grounds for suspension, the effective date of suspension, “the right of the person to request a hearing, the procedure for requesting a hearing, and the date by which that request for hearing must be made.” Section 303.041.2. The suspension becomes effective thirty days after the notice is deemed received.⁴ Section 303.042.1. The effective date of the suspension can be stayed if a request for a hearing is received prior to the effective date of the suspension. Section 303.041.2. Section 303.290.1 provides for administrative hearings upon the request of licensees “aggrieved by orders or acts of the director under the provisions of this chapter.”

[3] Here, the record shows that Driver did not request an administrative hearing regarding the suspension of her license for failure to provide proof of financial responsibility. The Driver waived any available judicial action when she failed to exhaust the administrative remedies available under Section 303.041. Accordingly, the trial court did not have the authority to remand the case to the Director for an administrative hearing.

[4] Rule 84.14⁵ authorizes this court to finally dispose of the case. “On review, we may dispense with the remand process and ‘render the judgment that should have been rendered by the trial court.’” *Norber v. Marcotte*, 134 S.W.3d 651, 662 (Mo.App. E.D.2004) (quoting *205 *Meiners v. Meiners*, 858 S.W.2d 788, 791 (Mo.App. E.D.1993)). We are only able to dispose finally of the case when the record and evidence on appeal give us some degree of confidence in the reasonableness, fairness and accuracy of that disposition. *Id.* Therefore, we vacate the trial court's order remanding the case to the Director.

Conclusion

We affirm the trial court's dismissal of Driver's petition and vacate its order remanding the case to the Director.

KURT S. ODENWALD, P.J., and ROBERT G. DOWD, JR.,
J., concur.

Footnotes

- 1 All statutory references are to RSMo.2000, unless otherwise indicated.
- 2 Driver did not file a Respondent's brief.
- 3 Although there was no copy of the January 13, 2009 Notice, both parties agreed that it was sent.
- 4 The notice is deemed received three days after mailing. Section 303.041.1.
- 5 All other rule references are to Mo. R. Civ. P. (2010), unless otherwise indicated.

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