

IN THE COMMON PLEAS COURT OF
HAMILTON COUNTY, OHIO

BARBARA HICKS,

Appellant,

v.

WESTLAKE AVON, LLC, et al.,

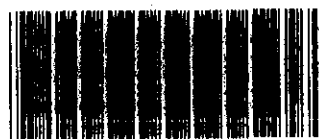
Appellees.

: Case No. A1103233

: Judge Norbert A. Nadel

: Magistrate Michael L. Bachman

: **MAGISTRATE'S DECISION**



D94504808

RENDERED THIS 7th DAY OF SEPTEMBER, 2011

This matter is before the Court on Appellee Unemployment Compensation Review Commission's (hereinafter "Review Commission") May 13, 2011 Motion to Dismiss pursuant to R.C. 4141.282. This matter is properly before the Court.

I. BACKGROUND

This matter began when Hicks received an unfavorable decision from the Review Commission after a hearing regarding her employment claim with Westlake Avon, LLC. On March 24, 2011, the Review Commission issued its Decision Disallowing Request for Review.

Hicks timely filed a Notice of Appeal on April 22, 2011; however, that Notice was legally insufficient for the reasons discussed below.

II. DISCUSSION

The Court is bound by the *mandatory* language of R.C. 4141.282(A) and 4141.282(D) regarding the procedural aspects of Hicks' appeal.

R.C. 4141.282(A) states "Any interested party, within thirty days after written notice of the final decision of the unemployment compensation review commission was sent to all interested parties, may appeal the decision of the commission to the court of common pleas."¹

R.C. 4141.282(D) states "The commission shall provide on its final decision the names and addresses of all interested parties. The appellant *shall* name all interested parties as appellees in the notice of appeal. *The director of job and family services is always an interested party and shall be named as an appellee in the notice of appeal.*"² (emphasis added).

In her April 22, 2011 Notice of Appeal, Hicks failed to name the Director of Ohio Department of Job and Family Services as a party to this action. Further, the law does not permit Hicks now to amend her notice of appeal since the April 25, 2011 deadline to file the same has passed.³

A recent 11th District Court of Appeals decision citing controlling case law from the Ohio Supreme Court holds that the party (such as Hicks) appealing the Review Commission's final decision must *strictly comply* with R.C. 4141.282(D)'s requirement of

¹ R.C. 4141.282(A).

² R.C. 4141.282(D).

³ *Sydenstricker v. Donato's Pizzeria*, 2010-Ohio-2953.

naming all interested parties as appellees.⁴ And this Hicks did not do, thereby denying this Court jurisdiction to hear this matter.⁵

III. DECISION

This appeal is DISMISSED. The Appellant's Notice of Appeal fails to name the Director of the Ohio Department of Job and Family Services. This Court lacks subject matter jurisdiction.



MICHAEL L. BACHMAN
MAGISTRATE,
COURT OF COMMON PLEAS

⁴ *Id.* citing *Zier v. Bureau of Unemp. Comp.*, (1949) 151 Ohio St. 123.

⁵ *Siler v. Ohio Bur. of Emp. Servs.*, 1981 Ohio App. Lexis 13152.

NOTICE

Objections to the Magistrate's Decision must be filed within fourteen days of the filing date of the Magistrate's Decision. A party shall not assign as error on appeal the court's adoption of any factual finding of fact or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ. R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ. R. 53(D)(3)(b).

Copies sent by Clerk of Courts to:

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT COPIES OF THE FOREGOING DECISION HAVE BEEN SENT BY ORDINARY MAIL TO ALL PARTIES OR THEIR ATTORNEYS AS PROVIDED ABOVE.

Date: 9/8

Deputy Clerk: RAT