

TERMINATED 08

IN THE COURT OF COMMON PLEAS
STARK COUNTY, OHIO

CAROLYN HAGER,	:	CASE NO. 2012CV01306
	:	
Appellant,	:	JUDGE CHARLES E. BROWN, JR.
	:	
v.	:	JUDGMENT ENTRY GRANTING
	:	OHIO DEPARTMENT OF
OHIO DEPARTMENT OF	:	EDUCATION'S MOTION TO
EDUCATION,	:	DISMISS
	:	
Appellee.	:	

FILED
 JUN 11 2012
 JUDICIAL S. REINHOLD
 STARK COUNTY
 CLERK OF COURT

This matter came before the Court on Appellee Ohio Department of Education's Motion to Dismiss filed on May 24, 2012, and Appellant's Objection filed on June 4, 2012.

A Certified Copy of the Record of the Proceedings in this matter was filed on May 22, 2012.

Appellant has filed the instant action appealing a permanent denial by the Ohio Department of Education of Appellant's application for a five-year long-term adolescence to young adult substitute teaching license. The certified copy of the Resolution by the State Board of Education ordering the permanent denial was included with a certified-mail letter sent to the Appellant and dated April 19, 2012. Appellant had fifteen days from April 19, 2012, to file her notice of appeal. Appellant timely filed her notice of appeal on April 26, 2012.

Appellee moves the Court to dismiss the within appeal for lack of subject matter jurisdiction based upon Appellant's failure to comply with the notice of appeal requirements found in R.C. §119.12, which states in pertinent part:

Any party desiring to appeal shall file a notice of appeal with the agency setting forth the order appealed from and stating that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The notice of appeal may, but need not, set forth the specific grounds of the party's appeal beyond the statement that the agency's order is not supported by

reliable, probative, and substantial evidence and is not in accordance with law. The notice of appeal shall also be filed by the appellant with the court. **In filing a notice of appeal with the agency or court, the notice that is filed may be either the original notice or a copy of the original notice.** Unless otherwise provided by law relating to a particular agency, notices of appeal shall be filed within fifteen days after the mailing of the notice of the agency's order as provided in this section.

(Emphasis added).

A dismissal of an administrative appeal based upon a lack of subject matter jurisdiction was discussed by the Tenth District Court of Appeals in *Siegler v. Ohio State University*, 2011 WL 2112680 (Ohio App. 10 Dist.) wherein the Court stated:

When the right to appeal is bestowed upon a party via a statute, such as R.C. 119.12, the “appeal can be perfected only in the mode prescribed by that statute.” *Foreman v. Lucas Cty. Court of Common Pleas*, 189 Ohio App.3d 678, 2010–Ohio–4731, ¶ 12, citing *Ramsdell v. Ohio Civ. Rights Comm.* (1990), 56 Ohio St.3d 24, 27. Strict adherence to the filing requirements is necessary to invoke the common pleas court's jurisdiction over an administrative appeal under R.C. 119.12. *Id.*, citing *Hughes v. Ohio Dept. of Commerce*, 114 Ohio St.3d 47, 2007–Ohio–2877, ¶ 17; *L & F Tavern, Inc. v. Ohio Liquor Control Comm.*, 10th Dist. No. 09AP–873, 2010–Ohio–1025, ¶ 16.

While Appellant timely filed her appeal in the instant case, said appeal does adhere to the strict filing requirements of R.C. §119.12, which are necessary to invoke this Court's jurisdiction over the administrative appeal. Appellant's notice of appeal filed with the Court fails to indicate or allege “that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law.” Since Appellant's appeal does not include this mandatory language, Appellant has failed to invoke the jurisdiction of this Court. *Siegler at *3.*

Additionally, Appellant did not file “either the original notice or a copy of the original notice”, as required by R.C. §119.12, in that the notice of appeal sent to the Ohio Department of Education and the notice of appeal filed with the Court are different. (See

Admin Appeal "R" and Admin Appeal "S" included in the Certified of Record filed on May 22, 2012.)

For the reasons set forth above, the Court finds that Appellant has failed to invoke the jurisdiction of the common pleas court. As such, the Court grants Appellee Ohio Department of Education's motion to dismiss the within matter.

IT IS SO ORDERED.



Judge Charles E. Brown, Jr.

**NOTICE TO THE CLERK:
FINAL APPEALABLE ORDER**

IT IS HEREBY ORDERED that notice of the foregoing Judgment Entry shall be served on all parties of record within three (3) days after docketing of this Entry and the service shall be noted on the docket.



Judge Charles E. Brown, Jr.

Copies: Carolyn Hager, Plaintiff Pro Se
Reid T. Caryer, Esq.