D98246112

COURT OF COMMON PLEAS
ENTERED
HON. CHARLES J. KUBICKI, JR.
THE CLERK SHALL SERVE NOTICE TO PARTIES PURSUANT TO CIVIL RULE 58 WHICH SHALL BE TAXED AS COSTS HEREIN. 6/25/12

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

HARLAN DAVIS,

Appellant,

vs.

SKYLINE CHILI., et al.

Appellees.

Case No. A1202050

Judge Charles J. Kubicki, Jr.

ENTRY ADOPTING THE MAGISTRATE'S DECISION

FOR COURT USE ONLY
C.P. Line # : 10

This cause came to be heard upon an appeal from the decision of the Ohio Unemployment Compensation Review Commission ("Review Commission") that denied benefits to the Appellant, Harlan Davis. The Magistrate found that Appellant failed to name the Ohio Department of Job and Family Services in his appeal and therefore the Court lacks subject matter jurisdiction to hear the appeal. The case was dismissed. The objection period has expired and no objections to the decision were filed nor were there any extensions granted. WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the Magistrate's Decision is hereby affirmed.

Costs to the Appellant. This is the final appealable order. There is no just reason for delay.

ENTERED
JUN 26 2012

JUDGE CHARLES J. KUBICKI, JR.

MAGISTRATE
JUN 22 2012
HAS SEEN

IN THE COMMON PLEAS COURT OF HAMILTON COUNTY, OHIO

HARLAN DAVIS,	:	Case No. A1202050
Appellant,	:	Judge Charles J. Kubicki Jr.
v.	:	**MAGISTRATE'S DECISION**
SKYLINE CHILI, et al.	:	
Appellees.	:	

RENDERED THIS 23rd DAY OF MAY, 2012

D97732839

This matter is before the Court on Appellee Director, Ohio Department of Jobs and Family Services' ("ODJFS") April 18, 2012 Motion to Dismiss pursuant to R.C. 4141.282. This matter is properly before the Court.

I. BACKGROUND

This matter began when Harlan Davis ("Appellant") received an unfavorable decision from the Ohio Unemployment Compensation Review Commission ("Review Commission"). On February 22, 2012, the Review Commission issued its final Decision finding that the Appellant was discharged for just cause.

The Appellant timely filed a Notice of Appeal on March 15, 2012; however; the Notice of Appeal was legally insufficient for the reasons discussed herein.

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 Appellant's 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 Appellant's Notice of Appeal, Appellant failed to name the Director of ODFJS as a party to this action. Further, the law does not permit the Appellant now to amend the notice of appeal since the deadline to file the same has passed.[3]

A recent Eleventh District Court of Appeals decision citing controlling case law from the Ohio Supreme Court holds that the party (such as Appellant) appealing the Review Commission's final decision must strictly comply with R.C. 4141.282(D)'s requirement of naming all interested parties as appellees.[4] The Appellant failed to do this thereby denying this Court jurisdiction to hear this matter.[5]

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[1] R.C. 4141.282(A).
[2] R.C. 4141.282(D).
[3] *Sydenstricker v. Donato's Pizzeria*, 11th Dist. No. 2009-L-149, 2010-Ohio-2953.
[4] *Id. citing Zier v. Bureau of Unemp. Comp.*, 151 Ohio St. 123, 84 N.E.2d 746 (1949).
[5] *Siler v. Ohio Bur. of Emp. Servs.*, 2d Dist. No. 7099, 1981 Ohio App. Lexis 13152 (May 20, 1981).

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 in this appeal.

MAGISTRATE
COURT OF COMMON PLEAS

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: 5/23 **Deputy Clerk:** KAL