

**IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CIVIL DIVISION**

RONALD J. SMITH,	:	
	:	
Appellant,	:	
	:	Case No. 12CV-09-11264
vs.	:	
	:	
OHIO DEPARTMENT OF	:	
NATURAL RESOURCES, et al.,	:	
	:	(JUDGE FRYE)
Appellee.	:	

DECISION AND FINAL JUDGMENT
GRANTING APPELLEE’S MOTION TO DISMISS
(Motion # 1 Filed September 25, 2012)

I. Introduction

This is an administrative appeal from a decision of the Unemployment Compensation Review Commission (“UCRC”). On September 25, 2012, the Director, Ohio Department of Job and Family Services (“ODJFS”) moved to dismiss this appeal arguing that the court did not have jurisdiction because appellant Ronald J. Smith (“Appellant”) failed to comply with R.C. § 4141.282(D).

The determination whether a court has subject matter jurisdiction, that is, legal authority to look into the merits of a case, must be made at the outset. Without jurisdiction no ruling has any legal effect. Ohio law treats some procedural missteps in beginning an administrative appeal as jurisdictionally fatal. *E.g. Hughes v. Ohio Dept. of Commerce*, 114 Ohio St.3d 47, 2007-Ohio-2877.

On September 27, 2012, Appellant requested that: (1) the court deny ODJFS’s motion; and (2) that ODJFS be added as an additional appellee. ODJFS replied that Appellant failed to name all necessary parties and that any request to add the Director of ODJFS was untimely, as the 30-day appeal period had closed.

II. Factual and Procedural Background

On May 3, 2012, Appellant was terminated by the Ohio Department of Natural Resources (“ODNR”) for allegedly violating a rule. (Certified Record, p. 15) On June 29, 2012, ODJFS determined that Appellant was discharged for “good cause.” (*Id.* at p. 29) That decision was affirmed on July 17, 2012. (*Id.* at p. 30) On July 19, 2012, the matter was transferred to UCRC. (*Id.* at p. 40) On July 26, 2012, a hearing schedule was mailed to Appellant noticing an August 8, 2012 telephone hearing. (*Id.* at p. 67-68) The notice included instructions for participating in the hearing.

On August 9, 2012, UCRC dismissed the appeal because Appellant did not appear at the telephone hearing. (*Id.* at p. 83) Sometime after the August 9 dismissal¹, Appellant wrote a letter evidencing his intent to appeal the dismissal. (*Id.* at pp. 100-101) On August 15, 2012, UCRC scheduled a “good cause” hearing for August 28, 2012; however, Appellant again did not appear. (*Id.* at p. 113) UCRC found that Appellant had received notice of the hearing and, because no “good cause” existed for his failure to appear at the initial hearing, UCRC dismissed his appeal. (*Id.* at p. 135)

UCRC’s Decision was mailed on August 30, 2012. (*Id.* at p. 137) The Decision notified Appellant of his appeal rights. (*Id.*)

On September 6, 2012, Appellant filed his notice of appeal.

III. Motion to Dismiss

ODJFS contends Appellant failed to name all necessary parties and, therefore, that this court lacks jurisdiction over the appeal. Appellant responds by requesting that the Ohio Department of Job and Family Services simply be added as an additional appellee.

R.C. § 4141.282(D) provides in pertinent part:

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. [Emphasis added.]

¹ The handwritten letter at pp. 100-101 of the Certified Record is not dated.

Appellant must also comply with R.C. § 4141.282(A), which requires that any appeal from the UCRC be perfected within thirty days after written notice of the final decision. UCRC sent its final decision on August 30, 2012. Therefore, any appeal was due to be perfected by October 1, 2012.

Under Ohio law, absent some constitutional or statutory authority a party has no inherent right to appeal from an administrative order. When appeal is permitted, moreover, procedural requirements must be followed quite strictly. Practically speaking hyper-technical rules sometimes deprive parties of an opportunity to challenge state agencies, but the line of decisions demanding strict compliance with statutory procedural rules is time honored.

The 11th District in *Sydenstricker v. Donato's Pizzeria, LLC*, Case No. 2009-L-149, 2010-Ohio-2953, 2010 Ohio App. LEXIS 2455, considered the effect of an employee's failure to comply with R.C. § 4141.282(D). In *Sydenstricker*, the employee named only her former employer and the Board of Review of the Ohio Bureau of Employment Services. The Court found that the employee's failure to name the Director of ODJFS deprived the common pleas court of jurisdiction.

Here, appellant failed to name all necessary parties confirmed by his subsequent request to add ODJFS as "an additional appellee." (Appellant's Memo Contra, filed Sept. 27, 2012.) The notice of appeal shows that he only named "State of Ohio" and "Ohio dept [sic] of Natural resources [sic]" as appellees in the case. Unfortunately, that did not comply with R.C. § 4141.282(D).

The court is unable to grant Appellant's request to add ODJFS after the deadline to perfect his appeal, which was October 1, 2012. Accordingly, ODJFS's motion to dismiss must be **GRANTED**.

FINAL JUDGMENT

For the reasons stated, this case is **DISMISSED** with prejudice at Appellant's costs.

*****THIS IS A FINAL APPEALABLE ORDER*****

IT IS SO ORDERED.

Franklin County Court of Common Pleas

Date: 10-29-2012
Case Title: RONALD J SMITH -VS- OHIO DEPT NATURAL RESOURCES
Case Number: 12CV011264
Type: DECISION

It Is So Ordered.

The image shows a handwritten signature in black ink that reads "Richard A. Frye". The signature is written over a blue circular seal. The seal contains the text "COMMON PLEAS COURT" at the top, "FRANKLIN COUNTY, OHIO" in the middle, and "ALL THINGS ARE POSSIBLE" at the bottom.

/s/ Judge Richard A. Frye

Court Disposition

Case Number: 12CV011264

Case Style: RONALD J SMITH -VS- OHIO DEPT NATURAL RESOURCES

Case Terminated: 18 - Other Terminations

Final Appealable Order: Yes

Motion Tie Off Information:

1. Motion CMS Document Id: 12CV0112642012-09-2599980000

Document Title: 09-25-2012-MOTION TO DISMISS

Disposition: MOTION GRANTED