



FILED
LORAIN COUNTY

2012 DEC 26 AM 10 01

LORAIN COUNTY COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO
RON NABAKOWSKI, Clerk
JOURNAL ENTRY
Mark A. Betleski, Judge

FILED
LORAIN COUNTY
RON NABAKOWSKI

Date 12/20/12

Case No. 12CV177495

MATTHEW G SIMKOVICH

Plaintiff

PRO SE

Plaintiff's Attorney

VS

OHIO UNEMPLOYMENT
COMPENSATION REVIEW COMM

Defendant

LAURENCE R SNYDER

Defendant's Attorney

The Defendant-Appellee Ohio Unemployment Compensation Review Commission's (Defendant UCRC) motion to dismiss this administrative appeal came before the court for consideration. The court has reviewed the Defendant UCRC's motion and memorandum of law along with Plaintiff's response.

R.C. Section 4141.282(A) requires within 30 days after the written decision of the UCRC being sent to all interested parties an appeal must be filed. R.C. Section 4141.282(D) provides in pertinent part the final decision shall provide the names and addresses of all interested parties, the appellant shall name all interested parties in the notice of appeal and the Director of Job and Family Services is always an interested party that shall be named as an appellee in the notice of appeal. The appeal procedure prescribed by statute is mandatory. It has been a longstanding rule that an appeal conferred by statute can be perfected only in the mode prescribed by statute. Zier v. Bureau of Unemployment Comp. (1949), Ohio St. 123.

An unemployment compensation claimant's failure to name all interested parties, including the Director, Ohio Department of Jobs and Family Services, in a notice of appeal to the court of common pleas deprives the common pleas court of subject matter jurisdiction over the appeal. Sydenstricker v. Donato's Pizzeria LLC, 11th Dist. No. 2009-L-149,2010-Ohio-2953, 2010 Ohio App. LEXIS 2455. A party must strictly adhere to the requirements of R.C. 4141.282 for the court to have jurisdiction and a failure to strictly comply with the statutory requirements will cause the appeal to be dismissed for lack of jurisdiction. Luton v. State of Ohio Unemployment Compensation Review Commission, 8th Dist. No. 97996,2012-Ohio-3963, 2012Ohio App. LEXIS 3494. In this case the Plaintiff-Appellant Simkovich failed to name the Director of the Ohio Department of Job and Family Services as an appellee. The UCRC, in it's decision under the caption of appeal rights, set out the time for filing an appeal, that the Director of the Department of Job and Family Services must be named and the

address of the Director. The Plaintiff-Appellant's attempt to file an amended notice of appeal approximately three months after the appeal period had past does not comply with the mandatory requirements of the statute. For all of the foregoing reasons the Defendant-Appellee UCRC's motion to dismiss this case for lack of subject matter jurisdiction is granted. Case closed. Costs to the Plaintiff-Appellee. This is a final appealable order.


Mark A. Betleski

cc: Laurence Snyder
Matthew Simkovich

TO THE CLERK: THIS IS A FINAL
APPEALABLE ORDER
PLEASE SERVE UPON ALL PARTIES NOT IN
DEFAULT FOR FAILURE TO APPEAR,
NOTICE OF THE JUDGMENT AND
ITS DATE OF ENTRY UPON THE JOURNAL.

