



COURT OF COMMON PLEAS
HAMILTON COUNTY

MAR - 7 2013
Dennis Helmick
Hon. Dennis S. Helmick
By Assignment 3-7-2013

THOMAS E. PHILLIPS,
Appellant,

ENTERED :
MAR 07 2013 :

Case No. A1209152
Judge Dennis Helmick for DeWine

vs. :

UNEMPLOYMENT COMPENSATION
REVIEW COMMISSION, et al.

Appellees.

ENTRY OVERRULING
OBJECTION TO
MAGISTRATE'S DECISION
AND ADOPTING
DECISION DISMISSING
APPEAL

This matter is presently before the Court on Appellant's objection to the Magistrate's Decision of February 7, 2013. The Court, having reviewed the filings and relevant law finds the objection not well taken and overrules the objection. Appellant's failure to name the Director of the Ohio Department of Job and Family Services as party, required by R.C. 4141.282(D), is mandatory and Appellant's failure to do so is a jurisdictional defect. *See Dikong v. Ohio Supports*, 1st Dist. No. C-120057, 2013 WL 132753. For this reason, Appellant's objection is overruled and the Court adopts the Magistrate's decision.

IT IS SO ORDERED.

COURT OF COMMON PLEAS
ENTER
HON. DENNIS S. HELMICK
THE CLERK SHALL SERVE NOTICE
TO PARTIES PURSUANT TO CIVIL
RULE 58 WHICH SHALL BE TAXED
AS COSTS HEREIN.

FOR COURT USE ONLY
S. C. Line #: 8

Judge Dennis Helmick

Date

IN THE COMMON PLEAS COURT OF
HAMILTON COUNTY, OHIO

THOMAS E. PHILLIPS II,
Appellant,

vs.

UNEMPLOYMENT COMPENSATION
REVIEW COMMISSION, et al.,

Appellees.

Case No. A1209152

Judge Pat DeWine
Magistrate Michael L. Bachman

MAGISTRATE'S DECISION



D100734693

RENDERED THIS 24th DAY OF JANUARY, 2013

This matter is before the Court on Appellee, Ohio Unemployment Compensation Review Commission's December 18, 2012 Motion to Dismiss pursuant to R.C. 4141.282. This matter is properly before the Court.

BACKGROUND

This matter began when Thomas Phillips ("Appellant") received an unfavorable decision from the Ohio Unemployment Compensation Review Commission ("Review Commission"). On November 14, 2012, the Review Commission issued its Decision dismissing the Appellant's appeal finding that he did not have good cause for failing to appear at the scheduled hearing.

The Appellant timely filed a Notice of Appeal November 27, 2012; however, the Notice of Appeal was legally insufficient for the reasons discussed below.

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 the Ohio Department of Job and Family Services 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 1st District Court of Appeals decision held:

“Because R.C. 4141.282(D) expressly provides that the director of the Ohio Department of Job and Family Services is always an interested party and must be named in the notice of appeal, any amendments to the notice of appeal lacking such language *must be made* within the 30-day time frame following the mailing of the final determination of the Unemployment Compensation Review Commission.” (emphasis added).⁴

¹ R.C. 4141.282(A)

² R.C. 4141.282(D)

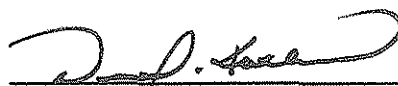
³ *Dikong v. Ohio Supports, Inc.*, 1st Dist. No. C-120057, 2013-Ohio-33.

⁴ *Id.* at 11.

Failure to comply with this provision must result in dismissal because the trial court does not acquire jurisdiction over the appeal.⁵ Because this Appellant failed to comply with this provision, this Court does not have jurisdiction.

DECISION

The 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.



**MICHAEL L. BACHMAN
MAGISTRATE,
COURT OF COMMON PLEAS**

⁵ *Id.* at 12

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: 1/28

Deputy Clerk: 