

IN THE COURT OF COMMON PLEAS
STARK COUNTY, OHIO

IN RE CLAIM OF RICHARD GULOSH)
)
 APPELLANT)
)
 VS.)
)
 UNEMPLOYMENT COMPENSATION)
 REVIEW COMMISSION)
)
 APPELLEE)

CASE NO. 2013 CV 1337

JUDGE FORCHIONE

JUDGMENT ENTRY



Now comes the Court in consideration of the Motion of Director, Ohio Department of Job and Family Services (hereinafter ODJFS), as Intervenor, to Dismiss for Lack of Jurisdiction, filed on July 22, 2013. Appellant filed his Appellant's brief on August 14, 2013.

This case is an administrative appeal under R.C. § 4141.282, filed by Appellant on May 16, 2013 in which Appellant appeals the decisions of the Unemployment Compensation Review Commission ("Review Commission") that disallowed his Request for Review of several Hearing Officer decisions denying his claim for unemployment benefits.

Under R.C. § 4141.282, Appellant is required to name all interested parties identified in the decision of the Review Commission as Appellees in his Notice of Appeal. R.C. § 4141.282 provides as follows:

The Commission shall provide on its final decision the names and addresses of all interested parties. The appellant *shall* name all interested parties 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).

Failure of an Appellant to name all interested parties, including the Director, as Appellee is a jurisdictional defect. Where the right of appeal is conferred by statute, as here, exercise of such right is conditioned upon compliance with the accompanying mandatory requirements. *Zier v. Bureau of Unemployment Compensation* (1949), 151 Ohio St. 123, 125. Petitioner, here, has failed to name a necessary party, namely the Director of the Department of Job and Family Services, therefore, failing to comply with the mandatory requirements of R.C. § 4141.282. Petitioner failed to comply despite having been notified not only of said requirement, but also of the Director's name and address on each of the Review Commission decisions that he received.

The fact that the Director has filed a Notice of Appearance has no bearing here, as defects of subject matter jurisdiction cannot be waived. The lack of subject matter jurisdiction is not a waivable defense and must be raised for the first time upon appeal. *Jenkins v. Keller* (1966), 6 Ohio St.2d 122. The failure of Appellant to name all necessary parties has divested this Court of the necessary subject matter jurisdiction.

Accordingly, upon consideration, the Court hereby GRANTS the Motion of Director, ODJFS, as Intervenor, to Dismiss for Lack of Jurisdiction.

IT IS SO ORDERED.



JUDGE FRANK FORCHIONE

cc: Susan Sheffield, Esq.
John Variola, Esq.
Kelley Barnes, Esq.