

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

BARRY HARP,	□	CASE NUMBER 13CV6889
	∥	
APPELLANT,	□	JUDGE LYNCH
	∥	
vs.	□	MAGISTRATE MCCARTHY
	∥	
MINERVA PARK POLICE	□	
DEPARTMENT, ET AL.,	∥	
	□	
APPELLEES.	∥	

**DECISION AND ENTRY GRANTING MOTION OF APPELLEE,  
DIRECTOR, OHIO DEPARTMENT OF JOB AND FAMILY SERVICES  
TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION,  
Filed November 13, 2013**

**LYNCH, J.**

This matter is before the Court upon the motion of Appellee, Director, Ohio Department of Job and Family Services (“ODJFS”) to dismiss the within administrative appeal for lack of subject matter jurisdiction, filed on November 13, 2013. The motion is unopposed by either Appellant Barry Harp (“Harp”) or Appellee Minerva Park Police Department (“Minerva Park Police”).

Harp filed this unemployment compensation appeal on July 3, 2013, naming Minerva Park Police Department as the only Appellee. As is reflected on the Clerk’s docket, ODJFS was not named as an Appellee and no Notice of Appeal was ever served upon ODJFS. Subsequently, on November 1, 2013, this Court issued an order that ODJFS be joined as an Appellee pursuant to Civ.R. 21 and R.C. 4141.282 in order to comport with the statute. Nevertheless, ODJFS now argues that despite this Court’s order of mandatory joinder, the requirements of R.C. 4141.282(D) have not been met and therefore this Court lacks subject matter jurisdiction over the entire case.

Upon consideration, the Court agrees with ODJFS. Specifically, the Court finds that 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 by the Unemployment Compensation Review Commission in order to vest the trial court with subject matter jurisdiction over the matter. *Sydenstricker v. Donato's Pizzeria*, 11th Dist. No. 2009-L-149, 2010 Ohio 2953 (followed by *Mattice v. Ohio Dept. of Job & Family Svcs.*, 2<sup>nd</sup> Dist. No. 2718, 2013-Ohio-3941; *Dikong v. Ohio Supports, Inc.*, 2013-Ohio-33; 985 N.E.2d 940); see also *Reuben McMillan Free Library Assn. v. Mahoning Cty. Budget Comm.*, 175 Ohio St. 191, 194, 192 N.E.2d 67 (1963) (where "...a statute provides that certain parties are necessary to an appeal, such parties must be joined before the time for filing the appeal has lapsed, otherwise such appeal must fail"), *overruled on other grounds, Brooklyn v. Cuyahoga Cty. Budget Comm.*, 2 Ohio St.2d 181, 207 N.E.2d 764 (1965); see also *CHS-Windsor v. Ohio Dept. of Job and Family Servs.*, 10th Dist. No. 05AP-909, 2006 Ohio 2446 (construing R.C. 119.12 and reaching a similar conclusion). The Court further finds that even the Court's order of November 1, 2013 cannot "cure" the jurisdictional defect.

Accordingly, for the reasons set forth above, the Court finds the motion of ODJFS well taken, and it is hereby **GRANTED**. The within matter is **DISMISSED**, with prejudice.

**IT IS SO ORDERED.**

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Franklin County Court of Common Pleas

**Date:** 12-06-2013  
**Case Title:** BARRY HARP -VS- MINERVA PARK POLICE DEPARTMENT  
**Case Number:** 13CV006889  
**Type:** DECISION/ENTRY

It Is So Ordered.

  
The image shows a handwritten signature in black ink that reads "Julie M. Lynch". The signature is written in a cursive style. To the right of the signature is a circular blue ink stamp. The stamp contains the text "COMMON PLEAS COURT" at the top, "FRANKLIN COUNTY, OHIO" in the middle, and "ALL THINGS ARE" at the bottom. The stamp is partially obscured by the signature.

/s/ Judge Julie M. Lynch

Court Disposition

Case Number: 13CV006889

Case Style: BARRY HARP -VS- MINERVA PARK POLICE  
DEPARTMENT

Case Terminated: 08 - Dismissal with/without prejudice

Final Appealable Order: No

Motion Tie Off Information:

1. Motion CMS Document Id: 13CV0068892013-11-1399970000

Document Title: 11-13-2013-MOTION TO DISMISS

Disposition: MOTION GRANTED