Œ	- MAR EUTA WARREN COUNTY GHIC FILED 14 MAR 12 AM 8: 26 JAMES L. SPAETH CLERK OF COURTS ET	
IN THE COURT OF COMMON PLEAS COUNTY OF WARREN, STATE OF OHIO		
CITY OF FRANKLIN,)	
Appellant, -vs-)) CASE NO. 13CV85005)	
OHIO UNEMPLOYMENT COMPENSATION REVIEW COMMISSION, et al.,	,)))	
Appellees.)) <u>ENTRY GRANTING</u>) <u>PERMANENT JUDGMENT ON</u>) <u>MAGISTRATE'S DECISION</u>)	

A Magistrate's Decision having been filed herein on February 20, 2014 and no objections to the Decision having been filed within fourteen (14) days from that date, the Court ORDERS the Decision adopted as a permanent judgment of this Court.

Robert,

JUDGE ROBERT W. PEELER

C: Robin Jarvis, Esq. Donnette Fisher, pro se

COMMON PLEAS COURT WARKEN COUNTY CHI. FILED 14 FEB 20 PM 3: 12 JAMES L. SEAETH CLERK OF COURTS

IN THE COURT OF COMMON PLEAS **COUNTY OF WARREN, STATE OF OHIO**

CITY OF FRANKLIN,)
Appellant,) CASE NO. 13CV85005
-V8-	
OHIO UNEMPLOYMENT)
COMPENSATION REVIEW)
COMMISSION, et al.,) MAGISTRATE'S DEC
)
Appellees.)

Appellees.

AGISTRATE'S DECISION

The Ohio Department of Job and Family Services has filed a motion to dismiss the City of Franklin's administrative appeal of a decision of the Ohio Unemployment Compensation Review Commission on jurisdictional grounds.

R.C.4141.282 (D) requires that one who appeals a decision of the UCRC "shall name all interested parties as appellees in the notice of appeal." In the instant matter, the City has failed in its notice of appeal to name the claimant of unemployment compensation in the administrative proceedings below as an appellee herein. It should go without saying that the claimant is an "interested party" to this appeal, and was designated as such in the UCRC's decision.

It is elementary that an appeal, the right of which is conferred by statute, can be perfected only in the mode prescribed by statute. Zier v. Bur. of Unemployment Compensation, 151 Ohio St.123, 84 N.E.2d 746 (1949); Nicoll v. Ohio Dep't. of Job & Family Srvs., 2d Dist. No. 24509, 2011 Ohio 5207, ¶ 11. Accordingly, the failure of an appellant in an unemployment compensation appeal to name all interested parties deprives the Court of Common Pleas of subject matter jurisdiction to consider the appeal. See In re Claim of King, 62 Ohio St.2d 87, 88-89, 403 N.E.2d 200 (1980); Mattice v. Ohio Dep't. of Job & Family Svrs., 2d Dist. No. 25718, 2013 Ohio 3941, ¶ 26; Dikong v. Ohio Supports, Inc., 1st Dist. No. C-120057, 2013 Ohio 33, 985 N.E.2d 949, ¶ 26; Luton v. State Unemployment Review Comm'n., 8th Dist. No. 97996, 2012 Ohio 3963, ¶¶ 15-19; Sydenstricker v. Donato's Pizzaria, LLC, 11th Dist. No. 2009-L-149, 2010 Ohio 2953, ¶¶ 23-25.

The City's reliance upon Civ.R.21 and Civ.R.15 is misplaced. The Ohio Rules of Civil Procedure are inapplicable to administrative appeals, just as the Rules are inapplicable to an appeal before a court of appeals or the Supreme Court of Ohio. See Aspinwall v. Bd. of Tax Review, 146 Ohio App.3d 466, 473-74, 766 N.E.2d 1034 (11th Dist. 2001); Giovanetti v. Ohio State Dental Bd., 66 Ohio App.3d 381, 383, 584 N.E.2d 66 (11th Dist. 1990); In re McKenzie, 12th Dist. No. CA86-08-018, 1987 Ohio App. LEXIS 5873, *6-4; McCourt v. Weather-Tite Aristocrat, 8th Dist. No. 39614, 1979 Ohio App. LEXIS 10964, *9-10.

Finally, this Magistrate finds also that the City's reliance upon Spencer v. Freight Handlers, Inc., 131 Ohio St.3d 316, 2012 Ohio 880, 964 N.E.2d 1030, is misplaced. Spencer deals solely with R.C.4123.512, which dictates the procedural requirements for perfecting an appeal from a decision of the Bureau of Workers' Compensation. This statute is significantly different from R.C.4141.282 (D), and the entire procedural framework of workers' compensation "appeals," which provide for a trial *de novo* in the Court of Common Pleas, is in no matter comparable to an unemployment compensation appeal. This Magistrate finds Spencer inapposite.

The motion of the Ohio Department of Job and Family Services is granted, and the abovereferenced administrative appeal is dismissed for want of subject matter jurisdiction.

MAGISTRATE ANDREW HASSELBACH

NOTICE TO PARTIES

The parties shall take notice that this decision may be adopted by the Court unless objections are filed within fourteen (14) days of the filing hereof in accordance with Civil Rule 53 (D)(3)(b).

A party shall not assign as error on appeal the court's adoption of any factual findings or legal conclusions, 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).

Lu MAGISTRATE ANDREW HASSELBACH

C: Attorney Robin Jarvis Attorney Donnette Fisher

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