

COMMON PLEAS COURT  
WARREN COUNTY OHIO  
FILED

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JAMES L. SPAETH  
CLERK OF COURTS

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

CITY OF FRANKLIN,

Appellant,

-vs-

OHIO UNEMPLOYMENT  
COMPENSATION REVIEW  
COMMISSION, et al.,

Appellees.

CASE NO. 13CV85005

ENTRY GRANTING  
PERMANENT JUDGMENT ON  
MAGISTRATE'S DECISION

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 Peeler*  
JUDGE ROBERT W. PEELER

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

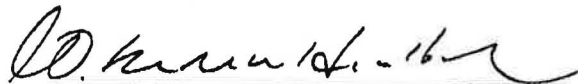


97996, 2012 Ohio 3963, ¶¶ 15-19; *Sydenstricker v. Donato's Pizzeria, LLC*, 11<sup>th</sup> Dist. No. 2009-L-149, 2010 Ohio 2953, ¶¶ 23-25.

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 (11<sup>th</sup> Dist. 2001); *Giovanetti v. Ohio State Dental Bd.*, 66 Ohio App.3d 381, 383, 584 N.E.2d 66 (11<sup>th</sup> Dist. 1990); *In re McKenzie*, 12<sup>th</sup> Dist. No. CA86-08-018, 1987 Ohio App. LEXIS 5873, \*6-4; *McCourt v. Weather-Tite Aristocrat*, 8<sup>th</sup> 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 above-referenced 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).

  
MAGISTRATE ANDREW HASSELBACH

C: Attorney Robin Jarvis  
Attorney Donnette Fisher