

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

ANTHONY ROBINSON,	:	
	:	
Appellant,	:	Case No. 15CVF-001028
	:	
v.	:	JUDGE SCHNEIDER
	:	
CITY HALL 4 TH FLOOR,	:	
	:	
Appellee.	:	

DECISION AND JUDGMENT ENTRY
DISMISSING APPEAL FOR LACK OF SUBJECT-MATTER JURISDICTION
AND
NOTICE OF FINAL APPEALABLE ORDER

SCHNEIDER, JUDGE

This is an administrative appeal pursuant to R.C. 4141.282 of a January 8, 2015 Decision of the Unemployment Compensation Review Commission Disallowing Appellant’s December 11, 2014 Request for Review.

On February 8, 2015, Appellant Robinson filed a Notice of Appeal with this Court. The Notice of Appeal lists “City Hall 4th Floor” as the sole “Appellee.” Indeed, Appellee is singular in the caption of the Notice of Appeal. No other entity is identified as an Appellee in the Caption or in the language of the Notice of Appeal, which reads: “Appellant, Anthony Robinson, through undersigned attorney, Louis Jay Chodosh, hereby gives Notice of his Administrative Appeal of the Decision of the Unemployment Compensation Review Commission issued January 8, 2015, attached as Exhibit A. Appellant disagrees with the decision. Dated this 4th day of February, 2015.” See Notice of Appeal, filed February 4, 2015. While the certificate of service indicates that a copy of the Notice of Appeal is to be served on the Director of the Ohio Dept. of Job & Family Services, the Director is not, in

fact, named as an Appellee in the Notice of Appeal.

Upon review of the Notice of Appeal, the Court finds that this case must be dismissed due to Appellant's failure to invoke the subject matter jurisdiction of this Court as Appellant's Notice of Appeal does not comport with the requirements of R.C. 4141.282. "It is elementary that an appeal, the right to which is conferred by statute, can be perfected only in the mode prescribed by statute." *Zier v. Bureau of Unemployment Compensation*, 151 Ohio St. 123, syllabus para.1 (1949). The Ohio Supreme Court has further held that "[c]ompliance with these specific and mandatory requirements governing the filing of such notice is essential to invoke jurisdiction of the Court of Common Pleas." *In re King*, 62 Ohio St.3d 87, 88 (1980), quoting *Zier* at paragraph two of the syllabus. More recently, Ohio courts have addressed the failure to name all interested parties as appellees as required by R.C. 4141.282(D). Those courts have held that the failure to do so deprives the trial court of subject-matter jurisdiction over the appeal. *See Rupert v. Ohio Dept. of Job & Family Servs.*, 6th Dist. Lucas No. L-14-1139, 2015-Ohio-915 (failed to name the employer); *Dikong v. Ohio Supports, Inc.*, 2013-Ohio-33, 985 N.E.2d 949 (1stDist.)(failed to name the director of job and family services); *Mattice v. Ohio Dept. of Job & Family Servs.*, 2d Dist. Montgomery No. 25718, 2013-Ohio-3941 (failed to name the employer); *Luton v. Ohio Unemp. Revision Comm.*, 8th Dist. Cuyahoga No. 97996, 2012- Ohio-3963 (failed to name the employer and director of job and family services); *Sydenstricker v. Donato's Pizzeria, LLC*, 11th Dist. Lake No. 2009-L-149, 2010-Ohio-2953 (failed to name the director of job and family services).

In this case, the pertinent portion of R.C. 4141.282, being the statute governing the appeal procedure involved herein, states:

(D) 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.** (emphasis added)

Pursuant to R.C. 4141.282(D), “[t]he appellant shall name all interested parties as appellees in the notice of appeal.” In this appeal, the Appellant was required to “name all interested parties as appellees in the notice of appeal, including the Director of the Department of Job and Family Services.” See January 8, 2015 Decision, page 4 of 4. Appellant was advised of this requirement in the “APPEAL RIGHTS” portion of the Unemployment Compensation Review Commission’s Decision Disallowing Request For Review mailed on January 8, 2015. *Id.* The Appellant failed to name the Director of ODJFS as an Appellee in the Notice of Appeal, which constitutes a failure to comply with the mandatory requirements of R.C. 4141.282(D). *Luton v. Rev. Comm.*, 2012-Ohio-3963, ¶14 (8thDist.). See also *In re Claim of King*, 62 Ohio St.2d 87, 87 (1980). “Substantial compliance” with the statute does not vest jurisdiction with the reviewing court. *Luton, supra* at ¶¶15-16.

It is clear from the January 4, 2015 Decision of the Unemployment Compensation Review Commission, which is contained in the filed Record of Proceedings, that the Review Commission complied with the applicable section of R.C. 4141.282(D). The January 4, 2015 Decision states in “Appeals Rights” on page 4 of 4 that “[a]n appeal from this decision may be filed to the Court of Common Pleas of the county where the appellant, if an employee, is resident or was last employed . . . , within thirty (30) days from the date of mailing of this decision, as set forth in Section 4141.282, Revised Code of Ohio. The appellant must name all interested parties as appellees in the notice of appeal, including the

Director of the Department of Job and Family Services." *See* Decision, R. p. 4 The February 24, 2015 Decision also provided the names and addresses of all interested parties, including Appellant and the Director of the Department of Job & Family Services. *Id.*

Here, Appellant failed to follow the mandates of R.C. 4141.282(D) by failing to name all interested parties in his notice of appeal, i.e. the Director of ODJFS, even though Appellant sought to service the Notice of Appeal on the Director and identified the Director as an Appellee in other, later filings with the Court. "An incorrect notice of appeal does not vest jurisdiction in the court of common pleas." *Sydenstricker v. Donato's Pizzeria, L.L.C.*, 2010-Ohio-2953, at *5 (11thDist.). *See* R.C. 4141.282(C). Appellant's failure, however, to strictly comply with the terms of the statute at the outset of the appeal deprives the Court of subject matter jurisdiction to hear his appeal. *Id.*

For this reason, the Court's jurisdiction has not been invoked to review any decision of the Unemployment Compensation Review Commission with regard to appellant.

Accordingly, the appeal herein is **DISMISSED** based on the fact that the appellant has not invoked the jurisdiction of this Court.

Rule 58(B) of the Ohio Rules of Civil Procedure provides the following:

(B) Notice of filing. When the court signs a judgment, the court shall endorse thereon a direction to the clerk to serve upon all parties not in default for failure to appear notice of the judgment and its date of entry upon the journal. Within three days of entering the judgment on the journal, the clerk shall serve the parties in a manner prescribed by Civ. R. 5(B) and note the service in the appearance docket. Upon serving the notice and notation of the service in the appearance docket, the service is complete. The failure of the clerk to serve notice does not affect the validity of the judgment or the running of the time for appeal except as provided in App. R. 4(A).

THE COURT FINDS THAT THERE IS NO JUST REASON FOR DELAY.

THIS IS A FINAL APPEALABLE ORDER. Pursuant to Civil Rule 58, the Clerk of Court shall serve notice upon all parties of this judgment and its date of entry.

IT IS SO ORDERED.

Copies To:

Counsel for Parties

Franklin County Court of Common Pleas

Date: 04-09-2015
Case Title: ANTHONY ROBINSON -VS- COLUMBUS CITY HALL 4TH FLOOR ET AL
Case Number: 15CV001028
Type: JUDGMENT ENTRY

It Is So Ordered.



/s/ Judge Charles A. Schneider

Court Disposition

Case Number: 15CV001028

Case Style: ANTHONY ROBINSON -VS- COLUMBUS CITY HALL
4TH FLOOR ET AL

Case Terminated: 10 - Magistrate

Final Appealable Order: Yes