

D111784728

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

ENTERED
AUG 28 2015

ROSILAND KING,

Appellant,

v.

SYLVESTER PATTON, et al.,

Appellees.

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CASE NO. A1203574

Judge John Andrew West

ENTRY OVERRULING
OBJECTION TO THE
MAGISTRATE'S
DECISION

This matter came before the Court on Rosiland King ("Appellant's") Objection to the Magistrate's Decision. After reviewing the written memoranda presented by the parties, and being otherwise fully informed of the premises, the Court hereby finds that Appellant's Objection is not well taken.

Accordingly, IT IS THE ORDER OF THE COURT that Appellant's Objection to the Magistrate's Decision is hereby overruled and the Magistrate's Decision is hereby adopted in its entirety.

Be it so Ordered.

DATE: _____

COURT OF COMMON PLEAS
ENTERED
John Andrew West
HON. JOHN ANDREW WEST
JUDGE JOHN ANDREW WEST
COURT CLERK SHALL SERVE NOTICE
TO PARTIES PURSUANT TO CIVIL
RULE 58 WHICH SHALL BE TAXED
\$ COSTS HEREIN.

FOR COURT USE ONLY
Line # 10

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

ROSILAND KING,

Appellant,

v.

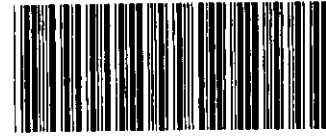
SYLVESTER PATTON, CHAIRMAN,
UNEMPLOYMENT COMPENSATION
REVIEW BOARD, et al.,

Appellees.

Case No. A1203574

Judge John Andrew West

MAGISTRATE'S DECISION



D99384131

RENDERED THIS 1st DAY OF OCTOBER 2012

This case is an appeal from the Ohio Unemployment Compensation Review Commission's ("Review Commission") decision disallowing benefits to Appellant, Rosiland King ("Appellant").

BACKGROUND

The Review Commission issued a Decision on March 20, 2012 finding the Appellant ineligible for benefits. The Appellant appealed the Decision. The Review Commission issued a Disallowing Request for Review on March 29, 2012. The Appellant filed an appeal to this decision on April 30, 2012 in the First District Court of Appeals. The Notice of Appeal is captioned to for Court of Common Pleas, Civil Division, Hamilton County, Ohio. The one paragraph pleading states:

Notice is hereby given that Rosiland King, Appellant, hereby
appeals to the Court of Appeals of Hamilton County, Ohio,

First Appellant District from the order of the Unemployment Compensation Review Commission in **Docket No:** C2012-002983, denying review of decision to deny unemployment benefits entered in this action on the day of 30th, of April 2012.

The First District Court of Appeals filed an Entry of Dismissal on May 1, 2012. On May 8, 2012, the Appellant filed a Notice of Appeal and a Motion to Accept Notice of Appeal as Timely in the Common Pleas Court. The Ohio Department of Job and Family Services ("ODJFS") filed a Response to Appellant's Motion to Accept Appeal as Timely and Request for Dismissal for Lack of Subject Matter Jurisdiction. The Appellant filed a Reply. The matter is ripe for review.

DISCUSSION

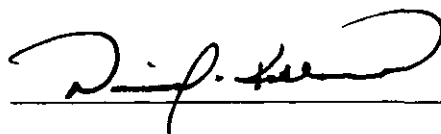
In Appellant's motion, she contends that she timely filed April 30, 2012 and served ODJFS and the Review Commission on the same day. Appellant contends that the Notice of Appeal was mistakenly sent to the Court of Appeals by the filing clerk and that there is no prejudice to the Appellees since they were served on the April 30, 2012 filing. ODJFS contends that this case must be dismissed for lack of subject matter jurisdiction pursuant to R.C. 4141.282 (A)(B)(C) which states that an appeal must be filed within thirty days in the Common Pleas Court in order for this Court to obtain jurisdiction. ODJFS also contends that a right of appeal conferred by a statute, can only be perfected in the manner prescribed by statute citing *Hansford v. Steinbacher*, 33 Ohio St. 3d 72, 514 N.E. 2d 1385 (1987) and *Griffith v. J.C. Penney, Co.*, 24 Ohio St. 3d

112, 113, 493 N.E. 2d 959 (1986). In Appellant's Reply she contends that *In re Estate of Tague*, 33 Ohio App. 3d 142, 514 N.E. 2d 910 (1986) is controlling. *In re Estate of Tague* is distinguishable from this case. In *Tague* the Court relied upon a certified Transcript of the Docket prepared by the clerk of the probate division of the Common Pleas Court to determine that a notice of appeal was timely filed in the proper division of the Common Pleas Court.

An appeal from the Review Commission's final decision must be filed in the Common Pleas Court within thirty days. R.C. 4141.282 (A)(B). A timely filing of a notice of appeal is necessary to vest jurisdiction in the court. R.C. 4141.282 (C). Here, the Claimant's Notice of Appeal was filed in the wrong court. Moreover, the Appellant's written language makes it clear that she was filing her appeal with the First District. In this case the Unemployment Statute states that the appeal must be filed with the Common Pleas Court and a timely filing in the correct court is necessary for this Court to obtain subject matter jurisdiction. Appellant's correct filing on May 8, 2012 cannot cure her incorrect filing on April 30, 2012.

DECISION

The Court finds that the Motion to Accept Notice of Appeal as Timely filed by Appellant is not well-taken. The Court hereby dismisses this case as the appeal is untimely and the Court lacks subject matter jurisdiction.



MAGISTRATE KOTHMAN

NOTICE

Objections to the Magistrate's Decision must be filed within fourteen days of the filing date of the Magistrate's Decision. A party shall not assign as error on appeal the court's adoption of any factual finding of fact or legal conclusion, 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).

Copies sent by Clerk of Courts to:

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Cincinnati, OH 45251

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT COPIES OF THE FOREGOING DECISION HAVE BEEN SENT BY ORDINARY MAIL TO ALL PARTIES OR THEIR ATTORNEYS AS PROVIDED ABOVE.

Date: 10/2

Deputy Clerk: 