

COURT OF COMMON PLEAS
ENTERED
HON. NADINE ALLEN
THE CLERK SHALL SERVE NOTICE
TO PARTIES PURSUANT TO CIVIL
RULE 58 WHICH SHALL BE TAXED
AS COSTS HEREIN.



IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

ENTERED
OCT 20 2015

NADINE Y. STRAIT,

: Case No. A 1503871

Appellant,

:
: Judge Nadine Allen
: Magistrate Michael L. Bachman

vs.

HAMILTON COUNTY
JOB FAMILY SVCS,

: ENTRY ADOPTING THE
: MAGISTRATE'S DECISION

Appellee.

RENDERED THIS ___ DAY OF OCTOBER, 2015

The Magistrate's decision dismissing this case for Failure to Timely Appeal and Failure to Name a Statutory Party was filed on September 24, 2015. The objection period has expired and no objections to the decision were filed nor were there any extensions granted. WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the Magistrate's Decision is hereby affirmed.

Costs to the Appellant. This is the final appealable order. There is no just reason for delay.

ENTER

OCT 19 2015
JUDGE NADINE ALLEN

NADINE L. ALLEN, JUDGE

MAGISTRATE

OCT 13 2015

HAS SEEN

FOR COURT USE ONLY
S.C. Line #: 10

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

NADINE Y. STRAIT,

: Case No. A 1503871

Appellant,

:
: Judge Nadine Allen
: Magistrate Michael L. Bachman

vs.

HAMILTON COUNTY
JOB FAMILY SVCS,

: **MAGISTRATE'S DECISION**

Appellee.



RENDERED THIS 24TH DAY OF SEPTEMBER, 2015

This matter is before the Court on Appellee Director, Ohio Department of Jobs and Family Services's ("ODJFS") Motion to Dismiss for Failure to Timely Appeal and Failure to Name a Statutory Party pursuant to R.C. 4141.282 and Hamilton County's Motion to Dismiss for failure to timely appeal. This matter is properly before the Court.

I. **BACKGROUND**

This matter began when Nadine Strait ("Appellant") received an unfavorable decision from the Ohio Unemployment Compensation Review Commission ("Review Commission"). On June 4, 2015, the Review Commission issued its final Decision finding that the Appellant did not have good cause for failure to appear at a scheduled hearing. The Appellant appealed to this Court on July 21, 2015. The appeal filed by the Appellant names the Hamilton County Department of Job & Family Services as an Appellee. The Appellant did not name the Ohio Department of Job & Family Services as an Appellee.

II. DISCUSSION

a. Appellant's appeal failed to name the Director of ODJFS, a statutorily imposed interested party.

The Court is bound by the mandatory language of R.C. 4141.282(A) and 4141.282(D) regarding the procedural aspects of Appellant's appeal.

R.C. 4141.282(A) states "Any interested party, within thirty days after written notice of the final decision of the unemployment compensation review commission was sent to all interested parties, may appeal the decision of the commission to the court of common pleas."¹

R.C. 4141.282(D) states "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."² (emphasis added).

In Appellant's Notice of Appeal, Appellant failed to name the Director of ODFJS as a party to this action. Further, the law does not permit the Appellant now to amend the notice of appeal since the deadline to file the same has passed.³

The First District Court of Appeals in *Dikong v. Ohio Supports, Inc.*⁴ ruled that failure to name all interested parties in a Notice of Appeal deprives a common pleas court of subject-matter jurisdiction over an unemployment compensation appeal. *Dikong* at ¶ 15. The Appellant failed to name a party, thereby denying this Court jurisdiction to hear this matter.⁵

b. Appellant failed to file a timely appeal to this Court.

The Appellant failed to appeal within thirty days. Under R.C. 4141.282(A), a party has

¹ R.C. 4141.282(A).

² R.C. 4141.282(D).

³ *Sydenstricker v. Donato's Pizzeria*, 11th Dist. No. 2009-L-149, 2010-Ohio-2953.

⁴ 2013-Ohio-33, 985 N.E.2d 949 (1st Dist.).

⁵ *Siler v. Ohio Bur. of Emp. Servs.*, 2d Dist. No. 7099, 1981 WL 2806 (May 20, 1981); *Dikong* at ¶15.

thirty days to file a valid appeal to a final administrative decision of the Review Commission.

R.C. 4141.282(A) states:

R.C. 4141.282(A) // THIRTY-DAY DEADLINE FOR APPEAL

Any interested party, within thirty days after written notice of the final decision of the unemployment compensation review commission was sent to all interested parties, may appeal the decision of the commission to the court of common pleas.

The Ohio Supreme Court holds that the provisions of R.C. 4141.282 are both mandatory and Jurisdictional.⁶

In this case, Appellant was advised of the 30-day deadline in the Decision of the Review Commission. An appeal that is one day late is sufficient to divest subject matter jurisdiction from the Court.⁷ The deadline for filing was July 6, 2015, but Appellant did not file the Appeal until July 21, 2015.

III. DECISION

The Motions of the Ohio Department of Job & Family Services and the Hamilton County Job and Family Services are granted. This appeal is DISMISSED. The Appellant's Notice of Appeal was filed after the 30-day deadline and also fails to name the Director of the Ohio Department of Job and Family Services. For these reasons, this Court lacks subject matter jurisdiction in this appeal.



**MAGISTRATE MICHAEL BACHMAN
COURT OF COMMON PLEAS**

⁶ See, *Griffith v. JCPenney Co.*, 24 Ohio St.3d 112, 493 N.E.2d 959 (1986); *Holmes v. Union Gospel Press*, 64 Ohio St.2d 187, 414 N.E.2d 415 (1980).

⁷ *Fowler v. Summa Health Systems*, 9th Dist. No. C.A.22091, 2004-Ohio-6740, 2004 Ohio App. Lexis 6267. *discr. appeal* disallowed at 105 Ohio St.3d 1501, 2005-Ohio-1663.

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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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: 9-25

Deputy Clerk: 