

FOR COURT USE ONLY  
S.C. Line #: 10  
JESSICA WILLIAMS,

COURT OF COMMON PLEAS  
ENTER  
*Beth A. Myers*  
HON. BETH A. MYERS  
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

Case No. A 1504813

ENTERED  
DEC 15 2015

Appellant,

Judge Beth A. Myers

vs.



OHIO DEPARTMENT OF JOB AND  
FAMILY SERVICES, DIRECTOR

ENTRY ADOPTING THE  
MAGISTRATE'S DECISION

Appellee.

RENDERED THIS \_\_\_ DAY OF DECEMBER, 2015

The Magistrate's decision dismissing this case for Failure to Timely Appeal and Failure to Name a Statutory Party was filed on November 19, 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.

*Beth A. Myers*  
JUDGE BETH A. MYERS

ENTER MAGISTRATE  
DEC 15 2015 DEC 14 2015  
HON BETH A. MYERS HAS SEEN

IN THE COURT OF COMMON PLEAS  
HAMILTON COUNTY, OHIO

JESSICA WILLIAMS,

Appellant,

vs.

OHIO DEPARTMENT OF JOB AND  
FAMILY SERVICES, DIRECTOR,

Appellee.

: Case No. A 1504813

:  
: Magistrate Michael L. Bachman

: **MAGISTRATE'S DECISION**



D112646692

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RENDERED THIS 17<sup>th</sup> DAY OF NOVEMBER, 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. This matter is properly before the Court.

I. **BACKGROUND**

This matter began when Jessica Williams ("Appellant") received an unfavorable decision from the Ohio Unemployment Compensation Review Commission ("Review Commission"). On July 15, 2015, the Review Commission issued its final Decision finding that the Appellant did not have enough weeks to establish a valid application. The Appellant appealed to this Court on September 8, 2015. The appeal filed by the Appellant does not name the employer as an Appellee.

## II. DISCUSSION

### a. Appellant's appeal failed to name the employer, 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."<sup>1</sup>

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."<sup>2</sup>

In Appellant's Notice of Appeal, Appellant failed to name the employer 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.<sup>3</sup>

The First District Court of Appeals in *Dikong v. Ohio Supports, Inc.*<sup>4</sup> 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.<sup>5</sup>

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<sup>1</sup> R.C. 4141.282(A).

<sup>2</sup> R.C. 4141.282(D).

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

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

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

**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 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.<sup>6</sup>

In this case, Appellant was advised of the 30-day deadline in the Decision Disallowing Request for Review. An appeal that is one day late is sufficient to divest subject matter jurisdiction from the Court.<sup>7</sup> The deadline for filing was August 14, 2015, but Appellant did not file the Appeal until September 8, 2015.

**III. DECISION**

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



**MAGISTRATE MICHAEL BACHMAN  
COURT OF COMMON PLEAS**

<sup>6</sup> 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).

<sup>7</sup> *Fowler v. Summa Health Systems*, 9<sup>th</sup> 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).

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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: 11-19

Deputy Clerk: 