

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

Preston W. House,		Case No. 15CV-06466
Appellant,		Judge Sheeran
vs.		
Ohio Unemployment Compensation Review Commission,		
Appellee.		

**Decision and Judgment Entry Dismissing Revised Code 4141.282 Administrative
Appeal for Lack of Subject Matter Jurisdiction**

and

Notice of Final Appealable Order

Sheeran, J.

This case is a Revised Code 4141.282 administrative appeal, by Preston W. House (Appellant), from two separate Decisions issued by the Ohio Unemployment Compensation Review Commission on June 30, 2015. In those Decisions, the Commission denied Appellant's request for further review of two separate Decisions issued by a Hearing Officer. The record that the Commission has certified to the Court reflects the following procedural history.

In 2012, Appellant applied to the Ohio Department of Job and Family Services (ODJFS) for unemployment compensation benefits. Appellant's application was allowed, and benefits were paid to Appellant.

In a Determination issued on November 27, 2013, ODJFS found that Appellant had been overpaid benefits in the amount of \$5,200 to which he was not entitled, and Appellant was ordered to repay that amount to ODJFS. ODJFS notified Appellant that he had the right to

appeal the Determination within 21 calendar days. Appellant did not, within 21 calendar days, appeal the Determination.

In a Determination issued on December 13, 2013, ODJFS found that Appellant had been overpaid benefits in the amount of \$3,200 to which he was not entitled, and Appellant was ordered to repay that amount to ODJFS. ODJFS notified Appellant that he had the right to appeal the Determination within 21 calendar days. Appellant did not, within 21 calendar days, appeal the Determination.

On March 16, 2015, Appellant appealed the November 27, 2013 and December 13, 2013 Determinations.

In Director's Redeterminations issued on April 1, 2015, the Director of ODJFS dismissed Appellant's appeals as untimely. Appellant appealed the Director's Redeterminations to the Ohio Unemployment Compensation Review Commission.

On May 22, 2015, a Hearing Officer for the Commission conducted a telephone hearing on the timeliness of Appellant's appeals from the Determinations issued on November 27, 2013 and December 13, 2013. Appellant participated in the hearing and testified that he did not receive either Determination. *Transcript (T.) pp. 5-6.*

In Decisions issued on May 29, 2015, the Hearing Officer affirmed the April 1, 2015 Director's Redeterminations, having found that Appellant's appeals were untimely. The Hearing Officer found that Appellant had received the November 27, 2013 and December 13, 2013 Determinations prior to the expiration of the 21-day appeal periods. The Hearing Officer found that Appellant's hearing testimony was not credible, because it was contradicted by written admissions made by Appellant, and contained in the Director's files, in which Appellant stated that he had received the November 27, 2013 and December 13, 2013 Determinations.

On June 2, 2015, Appellant appealed the Hearing Officer's May 29, 2015 Decisions to the Commission.

On June 30, 2015, the Commission disallowed Appellant's requests for further review of the Hearing Officer's Decisions. In each Decision, the Commission notified Appellant:

An 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.** (Emphasis added.)

On July 28, 2015, Appellant filed this appeal from the Commission's June 30, 2015 Decisions. Appellant did not name the Director of ODJFS as an appellee in Appellant's notice of appeal, and Appellant did not instruct the Franklin County Clerk of Courts to serve Appellant's notice of appeal on the Director of ODJFS.

On January 26, 2016, therefore, the Court ordered the Clerk to serve Appellant's notice of appeal on the Director of ODJFS, who has now appeared in the case through counsel.

Revised Code 4141.282(D) provides:

§ 4141.282 Appeal to court.

APPEAL TO COURT

(D) INTERESTED PARTIES

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.)

The Supreme Court of Ohio has held repeatedly that, when the right to appeal is conferred by statute, an appeal can be perfected only in the manner prescribed by the applicable

statute. *Welsh Dev. Co., Inc. v. Warren Cty. Regional Planning Comm.*, 128 Ohio St. 3d 471, 2011-Ohio-1604, ¶ 14. A party must strictly adhere to the filing requirements in order to perfect an appeal and invoke the jurisdiction of the common pleas court. *CHS-Windsor, Inc. v. Ohio Dept. of Job and Family Servs.*, 10th Dist. No. 05AP-909, 2006-Ohio-2446, ¶ 6.

The failure to name the Director of ODJFS as an appellee in the notice of appeal, as required by R.C. 4141.282(D), deprives a common pleas court of subject matter jurisdiction over an unemployment compensation appeal. *Hinton v. Ohio Unemp. Comp. Rev. Comm.*, 7th Dist. No. 14 MA 45, 2015-Ohio-1364, ¶¶ 14-15; *Dikong v. Ohio Supports, Inc.*, 1st Dist. No. C-120057, 2013-Ohio-33, syllabus; *Sydenstricker v. Donato's Pizzeria, LLC*, 11th Dist. No. 2009-L-149, 2010-Ohio-2953, ¶ 25. By failing to name the Director of ODJFS as an appellee in Appellant's notice of appeal, Appellant has failed to invoke the jurisdiction of this Court.

The Court is mindful of the fact that Appellant is not an attorney and that he has chosen to represent himself in this appeal. However, as a pro se party, Appellant is held to the same rules, procedures, and standards as those litigants represented by counsel and therefore must accept the results of his own mistakes and errors. *Discover Bank v. Doran*, 10th Dist. No. 10AP-496, 2011-Ohio-205, ¶ 6.

This Court does not possess subject matter jurisdiction over this appeal. This case is hereby **DISMISSED**.

This is a final, appealable Order. Pursuant to Civ. R. 58, the Franklin County Clerk of Courts shall serve notice of this judgment and its date of entry upon all parties.

Copies electronically transmitted to all parties and counsel of record.

Franklin County Court of Common Pleas

Date: 04-27-2016
Case Title: PRESTON HOUSE -VS- OHIO STATE DEPARTMENT JOB
FAMILY SERVICE
Case Number: 15CV006466
Type: DECISION/ENTRY

It Is So Ordered.

The image shows a handwritten signature in black ink that reads "Patrick E. Sheeran". The signature is written over a blue circular official seal. The seal contains the text "FRANKLIN COUNTY OHIO" around the top and "THINGS ARE" at the bottom. The center of the seal features a stylized figure.

/s/ Judge Patrick E. Sheeran

Court Disposition

Case Number: 15CV006466

Case Style: PRESTON HOUSE -VS- OHIO STATE DEPARTMENT
JOB FAMILY SERVICE

Case Terminated: 18 - Other Terminations

Final Appealable Order: Yes

Motion Tie Off Information:

1. Motion CMS Document Id: 15CV0064662016-01-2699970000
Document Title: 01-26-2016-MOTION TO DISMISS -
DEFENDANT: OHIO STATE DEPARTMENT JOB FAMILY SERVICE
Disposition: MOTION IS MOOT
2. Motion CMS Document Id: 15CV0064662016-04-1199980000
Document Title: 04-11-2016-MOTION FOR JUDGMENT ON
PLEADINGS - DEFENDANT: OHIO STATE DEPARTMENT JOB
FAMILY SERVICE
Disposition: MOTION IS MOOT