

FILED
LORAIN COUNTY
2016 AUG 12 P 2:42
COURT OF COMMON PLEAS
TOM ORLANDO

IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

)	CASE NO. 15CV188087
)	
Leonard James)	
Plaintiff-Appellant,)	JUDGE RAYMOND J. EWERS
)	
vs.)	JOURNAL ENTRY
)	JUDGMENT ENTRY
)	
)	
Ohio Unemployment)	
Review Commission, et al.)	
Defendant-Appellee.)	

August 4, 2016:

The above matter comes before the Court upon Defendant-Appellee Ohio Unemployment Compensation Review Commission's ("UCRC") Motion to Dismiss. The Motion was previously stayed by agreement of all parties in order for all parties and the Court to receive the Ohio Supreme Court Decision of *Pryor v. ODJFS*, Slip Opinion No. 2016-Ohio-2907.

On May 11, 2016, final disposition was rendered in the Ohio Supreme Court case of *Pryor*, supra. As a result, on June 3, 2016, the Court held a Telephone Status Conference with all parties. A briefing schedule was set in regard to Defendant-Appellee UCRC's Motion to Dismiss. As of today's date, the Court has not received any brief in opposition. Further, Plaintiff-Appellant was granted leave to file an amended notice of appeal on or before July 5, 2016, as a result of the *Pryor* Supreme Court decision. As of today's date, Plaintiff-Appellant did not file the amended notice of appeal.

Defendant-Appellee essentially asserts within their Motion that Plaintiff-Appellant's notice of appeal should be dismissed for lack of subject matter jurisdiction under R.C. 4141.282 for the following reasons: 1) Plaintiff-Appellant failed to name the Ohio Department of Job and Family Services ("ODJFS") as a required party-appellee in the notice of appeal, and 2) Plaintiff-Appellant does not have the right to amend the legally defective notice of appeal, as the 30-day statutory appeal period to file a valid

notice of appeal of the final decision of the UCRC (dated October 26, 2015) already expired on November 25, 2015, pursuant to R.C. 4141.282.

The Court had the opportunity to review the pending Motion to Dismiss and the recent Ohio Supreme Court Decision of *Pryor*. Pursuant to *Pryor*, supra, the Court finds that upon Plaintiff-Appellant timely filing the notice of appeal, jurisdiction vested with the trial court to preside over and adjudicate the notice of appeal. See, R.C. 4141.282(C). Upon an examination of the notice of appeal, however, the Court recognizes that the Administrator of the UCRC was named as the Administrator-Appellee, and that the Plaintiff-Appellant's former employer, Legacy Electric LLC, was named as the Employer-Appellee. ODJFS was not named as a defendant-appellee in this matter.

R.C. 4141.282(D), Interested Parties, 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.

R.C. 4141.282(D).

The October 26, 2015 Final Decision of the UCRC was sent to Plaintiff-Appellant and the Employer-Appellee. On page five of five of said Decision, within the first paragraph, appellants in general are instructed to name ODJFS as an interested party. The last sentence of the first paragraph, captioned at the top as "Appeal Rights", states, "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." October 26, 2015 Decision, page five of five.

As such, the Court finds that, upon leave of Court, Plaintiff-Appellant had the opportunity to amend the notice of appeal to name ODJFS as a defendant-appellee, however, has not done so. The Court agrees with Defendant-Appellee UCRC as to Plaintiff-Appellant failing to name ODJFS as an interested party in the notice of appeal, and for good cause shown, finds its Motion as to that reason well-taken. The Court disagrees with Defendant-Appellee UCRC's second reason to dismiss the notice of appeal, as the Court has proper jurisdiction to preside over the appeal and to allow an amendment to the notice of appeal. Said amendment to the notice of appeal, however, was not completed.

Upon a consideration of all matters, and pursuant to R.C. 4141.282(D), and Civil Rule 41(B)(1), (3), Defendant-Appellee UCRC's Motion to Dismiss is granted in part and the Court hereby dismisses the above notice of appeal/case without prejudice, otherwise than upon the merits, for failure to amend the notice of appeal to properly name ODJFS as a defendant-appellee to this action, after leave of Court was granted. Said dismissal is not for lack of jurisdiction re; *Pryor*, supra. Costs to Plaintiff-Appellant. Case Closed.

It is so ordered.

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Judge Raymond J. Ewers

TO THE CLERK: THIS IS A FINAL APPEALABLE ORDER. PLEASE SERVE UPON ALL PARTIES NOT IN DEFAULT FOR FAILURE TO APPEAR, NOTICE OF THE JUDGMENT AND ITS DATE OF ENTRY UPON THE JOURNAL.

Cc: Atty. James
Atty. MacQueeney
Legacy Electric, Inc.