

HIGHLAND COUNTY COMMON PLEAS COURT
HILLSBORO, OHIO

NOTICE OF FINAL APPEALABLE ORDER

TO: KEVIN ROBBINS
DEPARTMENT OF THE AIR FORCE
OHIO DEPARTMENT OF JOB AND FAMILY SERVICES

FILED
COMMON PLEAS COURT
HIGHLAND COUNTY, OHIO
AUG 23 2012
Dwight O Hodson
HIGHLAND COUNTY CLERK OF COURTS

PLEASE TAKE NOTICE THAT A JUDGMENT ENTRY HAS BEEN FILED AND ENTERED UPON THE JOURNALS IN THE OFFICE OF THE CLERK OF COURTS, HIGHLAND COUNTY, OHIO ON: AUGUST 23, 2012 IN CASE NUMBER: 12CV0240

KEVIN ROBBINS vs. DEPARTMENT OF THE AIR FORCE et al

COPY OF JUDGMENT ENTRY ATTACHED.

DWIGHT O HODSON

CLERK OF COURTS

BY *Carol Shaw*

Deputy Clerk

CC ATTY JARVIS

ATTY GERBOTH

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DEPARTMENT OF
JOB & FAMILY SERVICES
DIRECTORS OFFICE

IN THE COURT OF COMMON PLEAS
HIGHLAND COUNTY, OHIO

KEVIN ROBBINS : CASE NO: 12 CV 0240

Appellant : ENTRY GRANTING MOTION
TO DISMISS APPEAL

v. :
DEPARTMENT OF THE AIR FORCE, et al.:

Appellees

FILED
COMMON PLEAS COURT
HIGHLAND COUNTY, OHIO
AUG 23 2012
D. J. Hodson
HIGHLAND COUNTY CLERK OF COURTS

This cause came before the Court on the motion of the Appellee Director of the Ohio Department of Jobs and Family Services, to dismiss the appeal filed herein for lack of jurisdiction. The parties submitted their memoranda in accordance with the Court's briefing order and the Court has reviewed the same.

The Appellant filed a notice of appeal with the Clerk of this Court on June 8, 2012 alleging that he was appealing from the "Determination Number 22420069 of the State of Ohio Unemployment Review Commission". He failed to attach a copy of the determination which in the Court's opinion is contrary to Civil Rule 10.

Appellee Director of the Department of Jobs and Family Services filed a motion to dismiss the appeal for lack of jurisdiction and failure of the Appellant to exhaust his administrative remedies. The Appellee stated that the determination referred to by the Appellant in his appeal was the determination of a hearing officer which was attached to the Appellee's memorandum in support of the motion.

Since the Appellant acknowledges in his response to the motion that this is the ruling from which the appeal was filed. The Appellee notes that pursuant to R.C. 4141.281(C)(3), an interested party may file a request for review of a ruling of the hearing officer within twenty-one days of the mailing of the notice of the determination. The Appellee states that because the

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Appellant failed to follow this procedure, the Court lacks jurisdiction to hear the appeal because he failed to exhaust his administrative remedies provided by R.C. 4141.281(C)(3).

The Appellant counters that because R.C. 4141.281(C)(3) provides that a hearing officer's decision shall become final unless a request for review is filed and allowed or the commission removes the appeal to itself within twenty-one days after the hearing officer's decision is sent, that this constitutes a final appealable order which is appealable under R.C. 4141.282. He argues that the statute is poorly worded and that there is a lack of guidance by the Appellee in its notices.

The Court finds that the Appellee's motion is well taken. Any interested party in an unemployment compensation redetermination proceeding before a hearing officer has a right to file a request for review by the Unemployment Review Commission. If there is no appeal, the matter is final and is not subject to appeal to the Court of Common Pleas. R.C. 4141.282 is clearly intended to provide for appeals to the courts from decisions of the Unemployment Review Commission, not from the redeterminations of hearing officers.

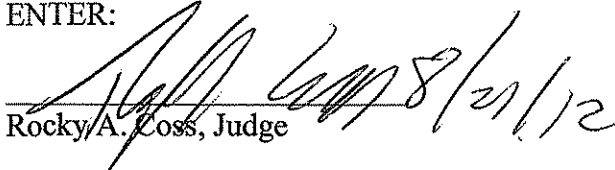
If Appellant's position is correct, then every applicant or every employer could avoid review by the commission by not filing for a review within the twenty-one day period provided in R.C. 4141.281(C)(3), and simply file an appeal to the common pleas court in which the applicant resided within thirty days. This would effectively make every hearing officer's decision reviewable by a court instead of the commission is the obvious intent of the statute.

Therefore, the Court finds that the Court has no jurisdiction over the appeal because the Appellant failed to exhaust the administrative remedy provided by R.C. 4141.281(C)(3).

IT IS HEREBY ORDERED that the Appellant's appeal be and is hereby dismissed.

The Court finds that there is no just cause for delay and this is a final appealable order. The Clerk shall deliver a copy of this entry to counsel and parties of record.

ENTER:


Rocky A. Coss, Judge