

DANIEL M. HORRIGAN

2012 DEC 13 AM 11:46

SUMMIT COUNTY THE COURT OF COMMON PLEAS  
CLERK OF COURTS SUMMIT COUNTY, OHIO

JANET KERR,	)	CASE NO: CV 2012-05-3013
	)	
Plaintiff-Appellant,	)	JUDGE JUDY HUNTER
	)	
v.	)	<b><u>ORDER</u></b>
	)	
SEVEN GRAINS INC.	)	
	)	
Defendant-Appellee.	)	

This matter comes before the Court upon the Motion of the Appellee Director, ODJFS to Dismiss the Appeal for Lack of Jurisdiction. The Court has been advised, having reviewed the Motion, memorandum in opposition, the docket, and applicable law. Upon due consideration, the Court finds the Motion well taken and it is granted.

LAW AND ANALYSIS

A party appealing a decision of the Unemployment Compensation Board of Review to the court of common pleas is required to follow the statutory requirements. *Sydenstricker v. Donato's Pizzeria, LLC*, 11th Dist. No. 2009-L-149, 2010 Ohio 2953, P16.

R.C. 4141.282 states in pertinent part:

"(D) 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 above statute unequivocally provides that the appellant must name all interested parties as appellees in the notice of appeal, including the Director of ODJFS. *Sydenstricker*, at P22. The failure of the appellant to name as appellees the proper parties at the time of filing the complaint renders the trial court without jurisdiction to hear the appeal. *Id.*, P25. See also, *In re Claim of King* (1980), 62 Ohio St.2d 87, 88 (interpreting former R.C. 4141.29(O)).

Pro se litigants are "presumed to have knowledge of the law and of correct legal procedure and [are] held to the same standard as all other litigants." *Kilroy v. B.H. Lakeshore Co.* (1996), 111 Ohio App. 3d 357, 363, cited in *Abbe v. Bochert*, 2001 Ohio App. LEXIS 2618, 8-9 (Ohio Ct. App. 2001). Furthermore, "[p]ro se litigants are not to be accorded greater rights and must accept the results of their own errors and mistakes." *Meyers v. First Natl. Bank* (1981), 3 Ohio App. 3d 209, 210, also cited in *Abbe v. Bochert*, 2001 Ohio App. LEXIS at 8-9.

In the case at hand, the commission complied with the applicable section of R.C. 4141.282(D) above by stating in its April 25, 2012 decision addressed to appellant:

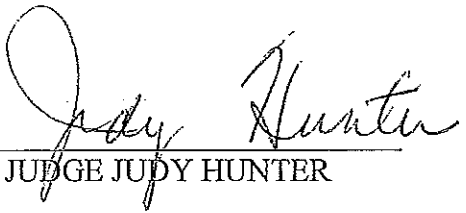
"APPEAL RIGHTS

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 \*\*\*. **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.)

Appellant did not name the Director of the ODJFS at the time of filing her Notice of Appeal, rather she did so only after the prompting by this Court to do so. Appellant's failure to properly name the Director at the time of filing her Notice of Appeal renders this Court without

jurisdiction herein, and the Court has no alternative but to dismiss Appellant's administrative appeal with prejudice. Court costs to Appellant.

So Ordered.

  
JUDGE JUDY HUNTER

cc: Attorney Susan Sheffield  
Janet Kerr, pro se  
Seven Grains, Inc.