

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO  
CIVIL DIVISION

LISA BERKEMEIER,

Plaintiff(s),

-vs-

PROVIDENCE MEDICAL GROUP,

Defendant(s).

CASE NO.: 2013 CV 00337

JUDGE GREGORY F. SINGER

**DECISION ORDER AND ENTRY  
SUSTAINING DEFENDANT'S MOTION  
TO DISMISS**

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This matter comes before the Court on Defendant Providence Medical Group (“Defendant PMG”)’s Motion to Dismiss Administrative Appeal pursuant to Civ.R. 12(B)(1), filed on February 12, 2013. Plaintiff, Lisa Berkemeier, has not filed a response.

Defendant PMG argues in its Motion that Plaintiff’s Notice of Appeal is fatally defective, in that it fails to name the Director of Ohio Department of Job and Family Services (“ODJFS”) as a party to the suit. The Revised Code provides appellants with the direct right to appeal a decision from the Unemployment Compensation Review Commission to this Court. R.C. §4141.282. Section 4141.282(D) also requires appellants to join “all interested parties as appellees... [t]he director of [ODJFS] is always an interested party and shall be named as an appellee in the notice of appeal.” Other courts have previously held that where an appellant fails to name the director as an interested party, which is a failure to fully comply with the statutory requirements that vest subject matter jurisdiction, the defect is fatal if the time for appeal has lapsed. *Dikong v. Ohio Supports, Inc.*, 1st Dist. No. C-120057, 2013-Ohio-33, ¶12-15; citing *Luton v. State of Ohio Unemp. Rev. Comm.*, 8th Dist. No. 97966, 2012-Ohio-3963, ¶15.

Here, the Court finds that Plaintiff’s Decision was mailed on January 3, 2013. Plaintiff had thirty days to appeal from that date, which would require her appeal to be filed on or before February 2, 2013.

Plaintiff did file her original appeal within that time period, on January 18, 2013. However, Plaintiff's Notice of Appeal clearly does not name the Director of ODJFS, which makes the filing defective. Plaintiff has not since amended her Notice of Appeal, nor has Plaintiff requested more time to do so. Therefore, the Court finds that it has no subject matter jurisdiction over this appeal, and as such, Defendant's Motion to Dismiss is **SUSTAINED**.

**THIS IS A FINAL APPEALABLE ORDER UNDER CIV. R. 58. PURSUANT TO APP. R. 4, THE PARTIES SHALL FILE A NOTICE OF APPEAL WITHIN THIRTY (30) DAYS**

SO ORDERED:

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JUDGE GREGORY F. SINGER

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General Division  
Montgomery County Common Pleas Court  
41 N. Perry Street, Dayton, Ohio 45422

**Type:** Decision  
**Case Number:** 2013 CV 00337  
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So Ordered

A handwritten signature in black ink, appearing to read "G. Singer".