

IN THE COURT OF COMMON PLEAS  
LAKE COUNTY, OHIO

ELIZABETH PETERS,

Plaintiff

vs.

SUMMIT ACADEMY MANAGEMENT,  
et al.,

Defendants

CASE NO. 13CV000679

JUDGE VINCENT A. CULOTTA

JUDGMENT ENTRY

This matter comes before the Court for consideration of the Appellee, Director, Ohio Department of Job and Family Services' Motion to Dismiss and the [pro se] Appellant Response to Appellee, Ohio Department of Job and Family Services' Motion to Dismiss.

This is a re-filed administrative appeal. The first appeal was filed on October 23, 2012, and was dismissed for want of prosecution on February 28, 2013. This appeal was filed on March 27, 2013. Appellant is appealing a July 27, 2010, decision of the Ohio Unemployment Compensation Review Commission denying her request to review a June 29, 2010, decision denying her claim for unemployment benefits.

At this time, Appellee, the Director, Ohio Department of Job and Family Services has filed a Motion to Dismiss. It is Appellee's position that Appellant's appeal is untimely as it was filed more than thirty days after the Review Commission's decision was mailed to her. Appellee relies upon R.C. §§4141.282(A) and (C), which provides that the timely filing of an appeal is required in order to perfect the appeal and vest jurisdiction in the court. Appellee maintains that inasmuch as the appeal was filed on March 27, 2013, it is untimely since the latest date that Appellant should have filed it was August 26, 2010. Thus, Appellee moves for dismissal of this appeal for lack of subject matter jurisdiction.

Appellant has filed a pro se opposition to Appellee's motion. Appellant explains her situation since the August 26, 2010, deadline for filing the appeal and asks this Court to consider the appeal and reverse the decision of the State of Ohio Unemployment Compensation Review Commission. Appellant has attached evidence to her brief setting forth her earnings over the last few years.

R.C. §4141.282(A) provides:

Any interested party, within thirty days after written notice of the final decision of the unemployment compensation review commission was sent to all interested parties, may appeal the decision of the commission to the court of common pleas.

R.C. 4141.282(C) provides:

The timely filing of the notice of appeal shall be the only act required to perfect the appeal and vest jurisdiction in the court. The notice of appeal shall identify the decision appealed from.

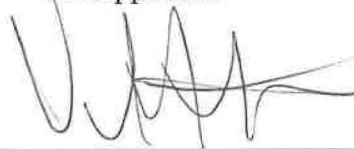
Subject-matter jurisdiction is the power conferred on a court to adjudicate a particular matter on its merits and to render an enforceable judgment in the action. *Morrison v. Steiner*, 32 Ohio St.2d 86, (1972), paragraph one of the syllabus. The lack of subject-matter jurisdiction may be raised at any time and is not a waivable defense. See *In re Claim of King*, 62 Ohio St.2d 87, 89 (1980).

The Ohio Supreme Court has held that where a right of appeal is conferred by a statute, the appeal can be perfected only in the mode prescribed by that statute, and that "the exercise of the right conferred is conditional upon compliance with the accompanying mandatory requirements." *Zier v. Bur. of Unemp. Comp.*, 151 Ohio St. 123, (1949), paragraph one of the syllabus. R.C. 4141.282 sets forth the procedures by which a party whose claim for unemployment-compensation benefits is denied may appeal to the court of common pleas from a decision of the Unemployment Compensation Review Commission.

It is the opinion of this Court that this Court lacks subject matter jurisdiction in this case because the notice of appeal is untimely as it was filed on March 27, 2013, while the decision being appealed was issued on July 27, 2010. The Court also notes that the previous Notice of Appeal filed in Case No. 12CV002812, appealing the same July 27, 2010, decision, which was dismissed without prejudice for want of prosecution on February 28, 2013, was also untimely since it was not filed until October 23, 2012.

**ACCORDINGLY**, the Appellee, Director, Ohio Department of Job and Family Services' Motion to Dismiss is well taken and granted. Costs to the Appellant.

**IT IS SO ORDERED.**



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**VINCENT A. CULOTTA, JUDGE**

Copies:

Laurence R. Snyder, Esq.  
Summit Academy Management  
Elizabeth Peters

**FINAL APPEALABLE ORDER  
Clerk to serve pursuant  
to Civ.R. 58 (B)**