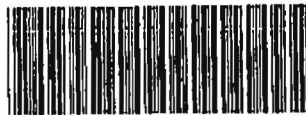


FOR COURT USE ONLY
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D105924659

COURT OF COMMON PLEAS
ENTER
Beth A. Myers
HON. BETH A. MYERS
THE CLERK SHALL SERVE NOTICE
TO PARTIES PURSUANT TO CIVIL
RULE 58 WHICH SHALL BE TAXED
AS COSTS HEREIN.

IN THE COMMON PLEAS COURT OF
HAMILTON COUNTY, OHIO

JEFFERY JOHNSON,

Case No. A 1308307

Appellant,

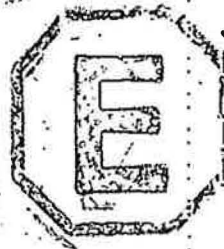
Judge Beth A. Myers
Magistrate Michael Bachman

vs.

MONTI INC.,

**ENTRY ADOPTING THE
MAGISTRATE'S DECISION**

Appellee.



ENTERED
APR 14 2014

The Magistrate's decision dismissing this case was filed on March 12, 2014. The objection period has expired and no objections to the decision were filed nor were there any extensions granted. WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the Magistrate's Decision is hereby affirmed.

Costs to the Appellant. This is the final appealable order. There is no just reason for delay.

MAGISTRATE
APR 07 2014
HAS SEEN

Beth A. Myers
JUDGE BETH A. MYERS

ENTER

APR 11 2014

HON BETH A. MYERS

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO



D105527202

JEFFERY JOHNSON, : Case No. A 1308307
: :
Appellant, : Judge Beth A. Meyers
: Magistrate Michael L. Bachman
vs. : :
: :
MONTI, INC., et al., : **MAGISTRATE'S DECISION**
: :
Appellees. : :

RENDERED THIS 12th DAY OF MARCH, 2014

This matter is before the Court on Appellee Director, Ohio Department of Jobs and Family Services' ("ODJFS") January 30, 2014 Motion to Dismiss for Failure to Timely Appeal and Failure to Name a Statutory Party pursuant to R.C. 4141.282. This matter is properly before the Court.

I. **BACKGROUND**

This matter began when Jeffery Johnson ("Appellant") received an unfavorable decision from the Ohio Unemployment Compensation Review Commission ("Review Commission"). October 15, 2013, the Review Commission issued its final Decision finding that the Appellant was discharged for just cause. The Appellant appealed the Decision to the Review Commission on November 13, 2013, and the Review Commission disallowed the Appellant's request for review.

The Appellant then filed a Notice of Appeal to the Decision with this Court; however; the Notice of Appeal was legally insufficient for the reasons discussed herein.

II. DISCUSSION

a. **Appellant's appeal failed to name the Director of ODJFS, a statutorily imposed interested party.**

The Court is bound by the *mandatory* language of R.C. 4141.282(A) and 4141.282(D) regarding the procedural aspects of Appellant's appeal.

R.C. 4141.282(A) states "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."¹

R.C. 4141.282(D) 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.*"² (emphasis added).

In Appellant's Notice of Appeal, Appellant failed to name the Director of ODFJS as a party to this action. Further, the law does not permit the Appellant now to amend the notice of appeal since the deadline to file the same has passed.³

¹ R.C. 4141.282(A).

² R.C. 4141.282(D).

³ *Sydenstricker v. Donato's Pizzeria*, 11th Dist. No. 2009-L-149, 2010-Ohio-2953.

⁴ 2013-Ohio-33, 985 N.E.2d 949 (1st Dist.).

The First District Court of Appeals in *Dikong v. Ohio Supports, Inc.*⁴ ruled that failure to name all interested parties in a Notice of Appeal deprives a common pleas court of subject-matter jurisdiction over an unemployment compensation appeal. *Dikong* at ¶ 15. The Appellant failed to satisfy this requirement, thereby denying this Court jurisdiction to hear this matter.⁵

b. Appellant failed to file a timely appeal to this Court.

The Appellant failed to appeal within thirty days. Under R.C. 4141.282(A), a party has thirty days to file a valid appeal to a final administrative decision of the Review Commission. R.C. 4141.282(A) states:

R.C. 4141.282(A) // THIRTY-DAY DEADLINE FOR APPEAL

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.

The Ohio Supreme Court holds that the provisions of R.C. 4141.282 are both mandatory and Jurisdictional.⁶

In this case, Appellant was advised of the 30-day deadline in the Decision Disallowing Request for Review. An appeal that is one day late is sufficient to divest subject matter jurisdiction from the Court.⁷ The deadline was December 13, 2013, but Appellant did not file the Appeal until December 19, 2013.

⁵ *Siler v. Ohio Bur. of Emp. Servs.*, 2d Dist. No. 7099, 1981 Ohio App. Lexis 13152 (May 20, 1981).

⁶ See, *Griffith v. JCPenney Co.*, 24 Ohio St.3d 112, 493 N.E.2d 959 (1986); *Holmes v. Union Gospel Press*, 64 Ohio St.2d 187, 414 N.E.2d 415 (1980).

⁷ *Fowler v. Summa Health Systems*, 9th Dist. No. C.A.22091, 2004-Ohio-6740, 2004 Ohio App. Lexis 6267. *discr. appeal* disallowed at 105 Ohio St.3d 1501, 2005-Ohio-1663.

III. DECISION

This appeal is DISMISSED. The Appellant's Notice of Appeal was filed after the 30-day deadline and also fails to name the Director of the Ohio Department of Job and Family Services. For these reasons, this Court lacks subject matter jurisdiction in this appeal.



**MAGISTRATE
COURT OF COMMON PLEAS**

NOTICE

Objections to the Magistrate's Decision must be filed within fourteen days of the filing date of the Magistrate's Decision. A party shall not assign as error on appeal the court's adoption of any factual finding of fact or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ. R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ. R. 53(D)(3)(b).

Copies sent by Clerk of Courts to:

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Cincinnati, OH 45229

Robin A. Jarvis, Esq.

Assistant Attorney General
1600 Carew Tower
441 Vine Street
Cincinnati, OH 45202

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT COPIES OF THE FOREGOING DECISION HAVE BEEN SENT BY ORDINARY MAIL TO ALL PARTIES OR THEIR ATTORNEYS AS PROVIDED ABOVE.

Date: 3/14

Deputy Clerk: 