

**IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CIVIL DIVISION**

Charlene Burt, :
Appellant, :
v. : Case No. 15CV 5506
Ohio State Unemployment :
Compensation Review Commission, :
et al., : JUDGE LYNCH
Appellees. :

**DECISION AND ENTRY GRANTING MOTION TO DISMISS
FOR LACK OF JURISDICTION
Filed July 7, 2015**

LYNCH, J.

This matter is before the Court upon the motion of ODJFS, Director, Ohio Department of Job & Family Services (“ODJFS”) for an order dismissing the claims of Appellant Charlene R. Burt (“Appellant”), filed July 7, 2015. The motion is unopposed.

In its motion, ODJFS argues Appellant’s unemployment compensation appeal must be dismissed for lack of subject matter jurisdiction for (1) failure to comply with the requirements of R.C. 4141.282(D) that all interested parties be named in the notice of appeal; and (2) failure to timely perfect her appeal pursuant to R.C. 4141.282(A). Specifically, ODJFS asserts that Appellant failed to perfect her appeal within the thirty day appeal period specified by R.C. 4141.282(A) and failed to name both the Director, Ohio Department of Job & Family services and the employer as interested parties, thereby depriving this Court of jurisdiction over the appeal.

Upon review, the Court finds the motion to dismiss of ODJFS well taken on both bases because the notice of appeal was filed well past the thirty-day time period

provided for by the statute and because Appellant failed to name ODJFS as an interested party. Although a review of the Complaint and Clerk's docket shows that the employer, Variety Stores, Inc. was named, the failure to name ODJFS suffices to deprive the Court of jurisdiction. See *Sydenstricker v. Donato's Pizzeria*, 11th Dist. No. 2009-L-149, 2010-Ohio-2953 (followed by *Mattice v. Ohio Dept. of Job & Family Svcs.*, 2nd Dist. No. 2718, 2013-Ohio-3941; *Dikong v. Ohio Supports, Inc.*, 2013-Ohio-33; 985 N.E.2d 940); see also R.C. 4141.282(A). Accordingly, the Court **GRANTS** the motion and the appeal of Appellant Charlene R. Burt is hereby **DISMISSED** in its entirety, with prejudice.

IT IS SO ORDERED.

Copy via U.S. mail to:

Charlene R. Burt
Apt. B, 5820 Milbank Road
Columbus, OH 43229
Appellant, *pro se*

Variety Stores, Inc.
218 S. Garnett St.
Henderson, NC 27535-4644
Appellee

Electronic copy to:

Alan Schwepe, Esq.
Senior Assistant Attorney General
Counsel for Director, Ohio Department of Job and Family Services

Franklin County Court of Common Pleas

Date: 08-28-2015
Case Title: CHARLENE R BURT -VS- VARIETY STORES INC ET AL
Case Number: 15CV005506
Type: DECISION/ENTRY

It Is So Ordered.


The image shows a handwritten signature in black ink that reads "Julie M. Lynch". The signature is written in a cursive style. Behind the signature is a circular blue ink stamp. The stamp contains the text "COMMON PLEAS COURT" at the top, "FRANKLIN COUNTY, OHIO" in the middle, and "ALL THINGS ARE" at the bottom. The stamp is partially obscured by the signature.

/s/ Judge Julie M. Lynch

Court Disposition

Case Number: 15CV005506

Case Style: CHARLENE R BURT -VS- VARIETY STORES INC ET
AL

Case Terminated: 08 - Dismissal with/without prejudice

Final Appealable Order: No

Motion Tie Off Information:

1. Motion CMS Document Id: 15CV0055062015-07-0799970000

Document Title: 07-07-2015-MOTION TO DISMISS -
DEFENDANT: UNEMPLOYMENT COMPENSATION REVIEW
COMMISS

Disposition: MOTION GRANTED