

IN THE COMMON PLEAS COURT OF
HAMILTON COUNTY, OHIO

GABRIEL N. DIKONG,

Appellant,

v.

OHIO SUPPORTS, INC., et al.,

Appellees.

: Case No. A1105035

: Judge Ralph E. Winkler

: Magistrate Michael L. Bachman

: **MAGISTRATE'S DECISION**



D95261645

RENDERED THIS 7TH DAY OF NOVEMBER, 2011

This matter is before the Court on Appellee Unemployment Compensation Review Commission's (hereinafter "Review Commission") August 4, 2011 Motion to Dismiss pursuant to R.C. 4141.282. This matter is properly before the Court.

I. BACKGROUND

This matter began when Dikong received an unfavorable decision from the Review Commission. On June 13, 2011, the Review Commission issued its Decision finding that the Appellant did not have good cause for failure to appear.

Appellant timely filed a Notice of Appeal on June 29, 2011; however, that Notice was legally insufficient for the reasons discussed below.

II. DISCUSSION

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 his Notice of Appeal, Appellant failed to name the Director of Ohio Department of Job and Family Services as a party to this action. Further, the law does not permit the Appellant now to amend his notice of appeal since the deadline to file the same has passed.³

A recent 11th District Court of Appeals decision citing controlling case law from the Ohio Supreme Court holds that the party (such as Appellant) appealing the Review Commission's final decision must *strictly comply* with R.C. 4141.282(D)'s requirement of naming all interested parties as appellees.⁴ And this Appellant did not do, thereby denying this Court jurisdiction to hear this matter.⁵

¹ R.C. 4141.282(A).

² R.C. 4141.282(D).

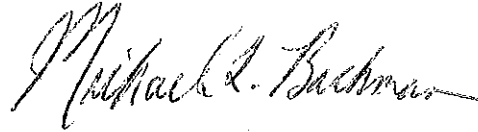
³ *Sydenstricker v. Donato's Pizzeria*, 2010-Ohio-2953.

⁴ *Id. citing Zier v. Bureau of Unemp. Comp.*, (1949) 151 Ohio St. 123.

⁵ *Siler v. Ohio Bur. of Emp. Servs.*, 1981 Ohio App. Lexis 13152.

III. DECISION

This appeal is DISMISSED. The Appellant's Notice of Appeal fails to name the Director of the Ohio Department of Job and Family Services. This Court lacks subject matter jurisdiction.



**MICHAEL L. BACHMAN
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).

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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: 11/8

Deputy Clerk: *R. H.*