

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

PATRICIA A. ALLEN,

Appellant,

vs.

STATE OF OHIO, UNEMPLOYMENT
COMPENSATION REVIEW
COMMISSION,

Appellees.

Case No. A1103214

Judge John Andrew West
Magistrate Michael L. Bachman

MAGISTRATE'S DECISION



D94776378

RENDERED THIS 20th DAY OF SEPTEMBER, 2011

This case is an appeal from the Unemployment Compensation Review Commission's ("Review Commission") April 15, 2011, Decision finding that Appellant Patricia A. Allen ("Appellant") filed an untimely appeal to the January 28, 2011 hearing officer's decision.¹

BACKGROUND

The Appellant filed an appeal to the denial of unemployment compensation benefits by the Review Commission. The hearing officer's decision denying benefits to the Appellant was sent to all interested parties and to the last known address of the Appellant. The Appellant received a copy of that decision prior to February 18, 2011, the last day of the appeal period. On February 3, 2011 and February 25, 2011, the Appellant filed a Request for Review to the Review Commission.

¹ Decision of the Review Comm'n issued April 15, 2011.

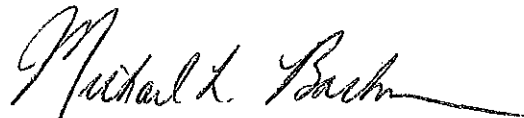
DISCUSSION

An interested party may file a Request for Review from a hearing officer's decision within twenty-one (21) calendar days after the hearing officer's decision is sent to the party, or the hearing officer's Decision becomes final. R.C. 4141.281 (C)(3). The appeal rights advising the Appellant of the last day to file was stated on the hearing officer's decision

Where a statute confers a right of appeal, such appeal may be perfected only by compliance with the mandatory statutory requirements. *Griffith v. J.C. Penny Co., Inc.* (1986), 24 Ohio St.3d 112; *McCruter v. Board of Rev.* (1980), 64 Ohio St.2d 277, 280. An appeal filed just one day late is sufficient to divest the court of subject matter jurisdiction. See, *Fowler v. Summa Health Systems*, 9th Dist. CA 22091, 2004-Ohio-6740, ¶ 7. Here, the Appellant did not file her appeal within the twenty-one day time period. The Appellant's appeal is untimely. Therefore, this Court lacks subject matter jurisdiction to render a decision in this case.

DECISION

The Appeal is DISMISSED. The Appellant's appeal to the Review Commission was untimely.



**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).

Copies sent by Clerk of Courts to:

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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: 9/29

Deputy Clerk: *RAJ*