

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
SANDUSKY COUNTY

Daniel R. Larcey

Court of Appeals No. S-13-018

Appellant

Trial Court No. 13 CV 14

v.

Ohio Department of Job &
Family Services, et al.

DECISION AND JUDGMENT

Appellee

Decided: January 10, 2014

* * * * *

Daniel R. Larcey, pro se.

Mike DeWine, Ohio Attorney General, and Eric A. Baum,
Managing Attorney, for appellee.

* * * * *

SINGER, J.

{¶ 1} Appellant, Daniel R. Larcey, appeals from the April 16, 2013 judgment of the Sandusky County Court of Common Pleas dismissing his appeal from a decision of the Unemployment Compensation Review Commission for lack of jurisdiction. Because we find the trial court lacked jurisdiction to hear the appeal, we affirm.

{¶ 2} Appellant applied for unemployment benefits August 1, 2012. In the prior year, he had been employed by International Marina Group 1 for one day and by U.S. Bank National Association, Inc. for five weeks during the second quarter of 2011, earning \$2,524.14, and seven weeks during the third quarter, earning \$3,808.30, for a total of 12 weeks. Appellant admitted at the hearing that he was not employed for any additional weeks.

{¶ 3} His application was disallowed by the Ohio Department of Job and Family Services on August 13, 2012, solely because he “did not have at least twenty qualifying weeks of employment subject to unemployment compensation or did not earn an average weekly wage of at least \$222 before taxes during the base period 07/01/2011 to 6/30/2012, as required by Section 4141.01(R)(1) of the Ohio Revised Code.” The director issued a redetermination on August 29, 2012, disallowing benefits for the same reason. Appellant appealed this decision to the Unemployment Compensation Review Commission and a hearing was held on September 28, 2012. On October 31, 2012, the commission held appellant had not met all of the requirements entitling him to benefits and affirmed the director’s redetermination. Appellant was informed in the decision that he could appeal the decision to the “Court of Common Pleas of the county where the appellant, if an employee, is resident or was last employed, * * * within thirty (30) days from the date of mailing of this decision.”

{¶ 4} Appellant filed an appeal with the Sandusky County Court of Common Pleas on January 4, 2013, well past the filing deadline. Appellee, Ohio Department of Job and

Family Services, moved to dismiss the appeal on the ground that the trial court lacked jurisdiction to hear the appeal because the appeal was untimely and appellant did not name the director or appellant's former employer as a party.

{¶ 5} The court dismissed appellant's appeal on February 14, 2013, but granted appellant's motion for reconsideration in order to hold a hearing on the matter. The hearing was held on February 26, 2013. Appellant asserted at the hearing that he had expected a second telephone hearing even though the process for appeal was indicated in the commission's decision. He also asserted that he had been misinformed by an employee of the Ohio Department of Job and Family Services regarding the filing of an appeal, although the commission's decision explained the process.

{¶ 6} The trial court again denied the motion on April 16, 2013, on the ground that appellant had been given notice of the appeal process. Furthermore, the court held that appellant was not entitled to invoke the doctrine of equitable estoppel to excuse his failure to file his appeal within the deadline based on *Delepine v. Ohio Department of Job and Family Services*, Seneca C.P. No. 11CV0482 (Apr. 19, 2012).

{¶ 7} On appeal, appellant raises many issues unrelated to the appeal process. The only issue this court can address is whether the trial court erred in dismissing his appeal to that court. In its decision, the commission notified appellant of his appeal rights and process for perfecting the appeal. The circumstances appellant described for failing to file a timely appeal are insufficient to invoke an equitable remedy. *Hortman v. Miamisburg*, 110 Ohio St.3d 194, 2006-Ohio-4251, 852 N.E.2d 716, ¶ 25; *Sekerak v.*

Fairhill Mental Health Center, 25 Ohio St.3d 38, 40, 495 N.E.2d 14 (1986); and *Mateer v. Ohio Dept. of Job & Family Servs.*, 10th Dist. Franklin No. 07AP-966, 2008 WL 802705 (Mar. 27, 2008). Therefore, we find that the trial court did not err in dismissing the appeal for lack of jurisdiction.

{¶ 8} The judgment of the Sandusky County Court of Common Pleas is affirmed. Appellant is ordered to pay the court costs of this appeal pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Arlene Singer, J.

JUDGE

Thomas J. Osowik, J.

JUDGE

James D. Jensen, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.