



The notice of appeal was filed with the Commission on June 8, 1998. The notice of appeal was in the form of a letter, written by Angela Bakaris, on behalf of Diane Bakaris. The letter requests “. . . an extension in order to write my appeal.” According to information filed with the Commission, the Bakaris’ never served a copy of the notice of appeal upon the Division Chief.

On July 16, 1998, the Division filed a Motion to Dismiss this appeal, arguing that the Bakaris’ failure to serve the Division Chief constitutes a jurisdictional defect, requiring dismissal of this appeal. Mrs. Bakaris did not respond to the Division's Motion to Dismiss.

## CONCLUSIONS OF LAW

O.R.C. §1509.36 sets forth the method by which an appeal is perfected to the Oil & Gas Commission. That section of law provides *inter alia*:

Any person claiming to be aggrieved or adversely affected by an order by the chief of the division of oil and gas may appeal to the oil and gas [commission] . . . Such appeal shall be filed with the [commission] within thirty days after the date upon which appellant received notice by registered mail of the making of the order complained of. Notice of the filing of such appeal shall be filed with the chief within three days after the appeal is filed with the [commission] . . .

(Emphasis added.)

Where a statute confers the right of appeal, adherence to the conditions imposed thereby is essential to the enjoyment of that right. American Restaurant and Lunch Co. v. Glander, 147 Ohio St. 147 (1946). The requirement that the Chief be served with a copy of a notice of appeal is mandatory and jurisdictional. Clippard Instruments Laboratory, Inc. v. Lindley, 50 Ohio St. 2d 121 (1977). Indeed, the Oil & Gas Commission has dismissed prior appeals for the appellant’s failure to serve the Division Chief. See Beverly Jo Dobbin Williams V. Mason, appeal #528 (April 26, 1994); William Kidd v. Mason, appeal #535 (May 20, 1994); Hanley Harley v. Mason, appeal #566 (June 26, 1996); Halwell Company v. Division, #594 (March 10, 1997).

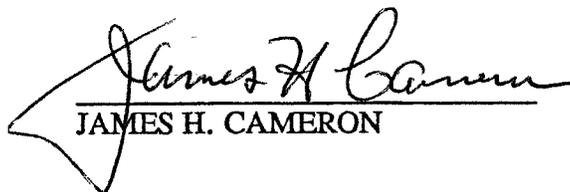
Mrs. Bakaris filed her appeal without aid of counsel. The Commission understands that unrepresented appellants may be unfamiliar with the procedures employed in administrative appeals. Yet, some statutory requirements are mandatory, and cannot be overlooked or waived. The law requires the Commission to dismiss appeals for jurisdictional failures. This is true even where the appellant is unrepresented. See Charles & Loretta Mertens v. Mason, appeal #494 (July 16, 1992); John & Gladys Spillman v. Mason, #604 (May 12, 1997).

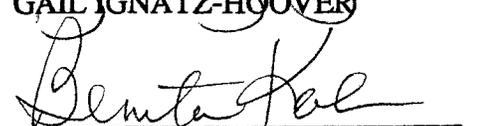
In order to invoke the jurisdiction of the Commission, an appellant must serve a copy of the notice of appeal upon the Chief within 3 days after filing the notice with the Commission. By law, the failure of an appellant to comply with this procedure results in the dismissal of an appeal. Mrs. Bakaris failed to satisfy this statutory requirement. For this reason, the Oil & Gas Commission lacks jurisdiction to hear and decide the immediate appeal.

## ORDER

The Oil & Gas Commission has read and considered the Appellee's Motion to Dismiss. The Commission has also reviewed its prior orders and decisions. The Commission finds the Appellee's arguments well taken. WHEREFORE, the Commission **GRANTS** Appellee's Motion and **DISMISSES** appeal no. 652, with prejudice.

  
WILLIAM J. TAYLOR, Chairman

  
JAMES H. CAMERON

  
GAIL IGNATZ-HOOVER  
  
BENITA KAHN, Secretary

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JOHN A. GRAY

**INSTRUCTIONS FOR APPEAL**

This decision may be appealed to the Court of Common Pleas of Franklin County, within thirty days of your receipt of this Order, in accordance with Ohio Revised Code Section §1509.37.

**DISTRIBUTION:**

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