

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO

MARK S MURRAY,

CASE NO. 2009 CV 02907

Plaintiff(s),

JUDGE GREGORY F. SINGER

-vs-

TOOLRITE MFG et al,

**DECISION AND ENTRY AFFIRMING
THE DECISION OF THE REVIEW
COMMISSION**

Defendant(s).

This matter is before the Court on Appellant Murray's appeal of the Ohio Department of Job and Family Services Review Commission decision disallowing unemployment compensation benefits as claimed by Appellant, finding that his dismissal was for just cause, being excessive absenteeism, as claimed by the Employer.

The Common Pleas Court has appellate authority in such a case which is circumscribed by Revised Code Section 4141.282 which provides:

The court shall hear the appeal on the certified record provided by the commission. If the court finds that the decision of the commission was unlawful, unreasonable, or against the manifest weight of the evidence, it shall reverse, vacate, or modify the decision, or remand the matter to the commission. Otherwise, the court shall affirm the decision of the commission.

The standard of review for an administrative appeal is set forth in R.C. 2506.04 which requires the Court to examine the evidence on the whole record in order to determine whether the agency's decision is unconstitutional, illegal, arbitrary, capricious, unreasonable, or unsupported by the preponderance of reliable, probative, and substantial evidence.

Dudukovich v. Lorain Metro. Hous. Auth. (1979), 58 Ohio St.2d 202, 207. A court may not blatantly substitute its judgment for that of the agency. Id.

Appellant claims that the Commission's decision ought to be reversed because it is "are unreasonable and against the weight of the evidence." While the appellant gives no further particulars in this case, it becomes clear from a review of the record that the finder of fact in this case determined from the record that the absenteeism of the appellant, and his failure to notify as to some of these instances, amounted to "an unreasonable disregard for his employer's best interests." Kiika v. Ohio Bureau of Employment Services, 21 Ohio App.3d 168,169 (1985).

The Court finding nothing unlawful, unreasonable or against the manifest weight of the evidence as to the Commission's finding, Appellant's appeal is not well taken.

THIS IS A FINAL APPEALABLE ORDER, AND THERE IS NOT JUST REASON FOR DELAY FOR PURPOSES OF CIV. R. 54. PURSUANT TO APP. R. 4, THE PARTIES SHALL FILE A NOTICE OF APPEAL WITHIN THIRTY (30) DAYS.

SO ORDERED:

GREGORY F. SINGER, JUDGE

To the Clerk of Courts:

Please serve the attorney for each party and each party not represented by counsel with Notice of Judgment and its date of entry upon the journal.

SO ORDERED:

GREGORY F. SINGER, JUDGE

This document is electronically filed by using the Clerk of Courts e-Filing system. The system will post a record of the filing to the e-Filing account "Notifications" tab of the following case participants:

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General Division
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Case Title: MARK S MURRAY vs TOOLRITE MFG

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Type: Decision

So Ordered

A handwritten signature in black ink, appearing to read "G. Singer", is written over the text "So Ordered".

Gregory F. Singer