

ORIGINAL

IN THE COURT OF COMMON PLEAS
OTTAWA COUNTY, OHIO

FILED
COMMON PLEAS COURT
2012 JAN 10 PM 1 24

Ben

Richard A. Calland

Case No. 11 CV 162F

JENNIFER WILKINS
CLERK OF COURTS
OTTAWA COUNTY, OHIO

Plaintiff,

Judge Bruce Winters

Vs.

OHIO ATTORNEY
GENERAL'S OFFICE
RECEIVED

Firelands Mechanical Inc. et al,

JUDGMENT ENTRY

JAN 12 2012

Defendant.

TOLEDO, OHIO

This matter is before the Court on an Administrative Appeal from a Decision of the Unemployment Compensation Review commission, said appeal filed pursuant to ORC 4141.281.

The role of the Common Pleas Court in this type of appeal is limited to determining whether Commission's decision was unlawful, unreasonable or against the manifest weight of the evidence. This is not a hearing de novo. *Tzangas, Plakas & Manos v Ohio Bur. Of Empl. Serv.* (1995) 73 Ohio St.3d 694. As long as there is competent credible evidence in the record that would support the Decision of the Review Commission, the Review Commission's Decision must stand. *Cent. Ohio Vocational School Dist. Bd. Of Edn v Admr., Ohio Bur of Emp Services* (1986) 21 Ohio St.3d 5,8.

This case turns on the question of Appellant quit employment without just cause and or if Appellant was separated from his work due to lack of work from the employer. There is evidence that employer, Firelands Mechanical, denied Appellant's request for

vacation time during the busiest season, and when Appellant took the vacation anyway, that is quitting without just cause. Accordingly, Appellant did not qualify to receive unemployment compensation benefits pursuant to RC 4141.29(D)(2). Contrary to this position is that Appellant submits there was a lack of work and there was an understanding that if work came up, the dispatcher at the office would call Appellant to come in for the job. Accordingly, he did not quit, but in fact he was not called back to work.

Considering the transcript of proceedings and all the evidence adduced herein, this Court cannot say that the Decision by the Review Commission was "so manifestly contrary to the natural and reasonable inferences to be drawn from the evidence as to produce a result in complete violation of substantial justice...." *Sambunjak v Bd. of Rev.* (1984) 14 Ohio App.3d 432, 433.

Accordingly, the Decision of the Review Commission is upheld and the appeal is dismissed at the costs of Appellant.

Clerk of Courts shall send copies of this order to all parties of record or their counsel within three days by regular US Mail.


Bruce Winters, Judge