

IN THE COURT OF COMMON PLEAS OF FRANKLIN COUNTY, OHIO
CIVIL DIVISION

ROBIN L. CRAWFORD,	□	CASE NUMBER 11CV9073
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APPELLANT,	□	JUDGE LYNCH
]]	
vs.	□	MAGISTRATE MCCARTHY
]]	
DIRECTOR, OHIO DEPARTMENT	□	
OF JOB AND FAMILY SERVICES]]	
	□	
]]	
APPELLEE	□	

DECISION TO AFFIRM
AND
JUDGMENT ENTRY

LYNCH, J.

This is an administrative appeal from an adjudication order issued by the Unemployment Compensation Review Commission on June 22, 2011 denying review of its hearing officer's June 6, 2011 decision denying appellant's request for unemployment compensation. The commission's operative decision at the review level found that appellant's employment was terminated for just cause in connection with her work. Appellant was thus disqualified from receiving benefits for the entire duration of her unemployment in accordance with R.C. 4141.29(D)(2)(a), which provides:

- (D) Notwithstanding division (A) of this section, no Individual may serve a waiting period or be paid benefits under the following conditions:
 - (2) For the duration of the individual's unemployment if the administrator finds that:
 - (a) The individual quit work without just cause or has been discharged for just cause in connection with

the individual's work . . .

A review of the record on appeal reveals appellant was employed by appellee, Miami Valley Hospital, Inc. as a clinical nurse in the ER department. Appellant was employed by Miami Valley from October 2007 to her date of employment termination, November 5, 2010. The record reflects that appellant was discharged from her employment for infractions of the hospital's policies concerning patient records creation. These standards included the prohibition of records falsification. Appellant disputes that she was discharged for just cause.

In reviewing a decision of the Unemployment Compensation Review Commission, a reviewing court may reverse the Commission's decision only if it is unlawful, unreasonable, or against the manifest weight of the evidence. R.C. § 4141.282(H). Otherwise, the Court must affirm such decision. *Tzangas, Plakas & Mannos v. Ohio Bur. of Emp. Serv.* (1995), 73 Ohio St. 3d 694, at 696. Reviewing courts should defer to the Commission's findings regarding the determination of purely factual issues, such as the credibility of witnesses and the weight to be given to conflicting evidence. *Angelkovski v. Buckeye Potato Chips Co.* (1983), 11 Ohio App. 3d 159, 161.

Although a reviewing court may not make factual findings or determine the credibility of witnesses, it has the duty of determining whether the evidence in the record supports the administrative agency's decision. *Tzangas*, supra at 696. The court may not reverse the decision of the agency, however, simply because it interprets the evidence differently than did the agency. *Angelkovski*, supra at 161.

The fact that reasonable minds might reach different conclusions is not a basis for the reversal of the agency's decision. *Tzangas*, supra.

In the instant action, and when considering the issue of whether the discharge of appellant was for just cause, the consideration must focus on the reason the employment relationship was brought to a conclusion. "The term 'just cause' has not been clearly defined in our case law. We are in agreement with one of our appellate courts that 'there is, of course, not a slide-rule definition of just cause.' Essentially, each case must be considered upon its particular merits. Traditionally, just cause, in the statutory sense, is that which, to an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act." *Irvine v. Unemp. Comp. Bd. of Review* (1985), 19 Ohio St.3d 15, quoting *Peyton v. Sun T.V.* (1975), 44 Ohio App.2d 10, 12.

Essentially, appellant contends that the evidence does not support the conclusions reached by the hearing officer, including the finding that appellant was discharged for just cause in connection with her work. In addition to having the responsibility of providing a fair hearing, a function of the hearing officer is to receive the evidence, consider it and draw from it reasonable conclusions consistent with the quality of the evidence presented.

Upon a full review of the record, it appears appellant was known to be a satisfactory employee until she was discovered to have materially deviated from the hospital's policy of creating and maintaining accurate medical records comprising patients' medical charts. Here, and in violation of necessary policy, appellant admittedly made chart notations without first objectively obtaining

necessary medical information as a result of failing to perform the necessary nursing assessment. Specifically, hospital policy required the assigned nurse to conduct a complete medical assessment on an hourly basis for certain identified patients. In appellant's case and in particularized cases, appellant would perform a complete assessment the first time she saw the patient at the start of her duty assignment. Thereafter, and without performing the required hands-on patient assessment, she would simply "cut and paste" the initial recordation into the chart location for subsequent assessments.

Appellant admits to utilizing such a short-cut method, but maintains that she did see the involved patients when required to do so and did visually examine them, to the exclusion of conducting a full hands-on assessment as required. Nevertheless, it is clear that, for whatever personal reasons may be claimed, appellant did objectively violate the necessary policy of Miami Valley Hospital.

In this administrative appeal appellant implicitly maintains the hearing officer committed error when he concluded that appellant was terminated for just cause. Just cause must be considered on a case by case basis. *Peyton v. Sun T.V.*, supra. *Irvine v. Unemployment Comp. Bd. of Review*, supra. There is no slide rule definition of the term "just cause". Each case must be considered upon its particular merits. *Id.*

The determination of what constitutes just cause must be analyzed in conjunction with the legislative purpose underlying the Unemployment Compensation Act. That purpose is to aid those employees who are out of work through no fault of their own. *Id.* Traditionally, just cause, in the statutory sense, is

that which, to an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act. *Peyton, supra*. Fault on behalf of the employee is an essential component of a just cause termination. *Tzangas, supra*. Just cause for termination is present where there is fault on the part of the employee. *Sellers v. Bd. of Review* (1981), 1 Ohio App. 3d 161.

The claimant has the burden of proving her entitlement to unemployment compensation benefits under Ohio Rev. Code Ann. §4141.29(D)(2)(a). Additionally, R.C. 4141.46 mandates that the Unemployment Compensation Act be liberally construed. Moreover, it has been judicially recognized the Act is to be liberally construed in favor of the persons benefiting. *Abate v. Wheeling-Pittsburgh Steel Corp.* (1998), 126 Ohio App.3d 742, 748. The purpose of the Act is to provide financial assistance to those without employment through no fault of their own. *Irvine, supra*.

Here, a situation was presented involving appellant who freely elected to eschew necessary hospital policies that existed for the protection of the patient and the hospital, and replace the mandatory processes with her own very risky and improper short-cut practices. Clearly, this action, to an ordinarily intelligent person, is simply not justifiable.

Upon a full consideration, it is found that the decision denying unemployment benefits to appellant is not unlawful, unreasonable, or against the manifest weight of the evidence. It is therefore **affirmed**. Appellee's motion to dismiss is **denied** as being moot.

Accordingly, judgment is hereby granted in favor of appellees. Costs to be paid by appellant.

Copies to:

Brandon A. Coate, Esq.
Counsel for Appellant

David E. Lefton, Esq.,
Counsel for Appellee Director of Ohio DJFS

Franklin County Court of Common Pleas

Date: 01-17-2012
Case Title: ROBIN L CRAWFORD -VS- MIAMI VALLEY HOSPITAL INC
Case Number: 11CV009073
Type: DECISION

It Is So Ordered.


The image shows a handwritten signature in black ink that reads "Julie M. Lynch". The signature is written in a cursive style. To the right of the signature is a circular blue ink stamp. The stamp contains the text "COMMON PLEAS COURT" at the top, "FRANKLIN COUNTY, OHIO" in the middle, and "ALL THINGS ARE" at the bottom. The stamp is partially obscured by the signature.

/s/ Judge Julie M. Lynch