

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

Jodie Machado, :
 :
 Appellant, : Case No. 12CVF02-1826
 :
 -v- : **JUDGE SERROTT**
 :
 Director, Ohio Department of Job &, :
 Family Services, :
 :
 Appellee. :

DECISION AND ENTRY GRANTING APPELLEE’S MOTION FOR REMAND
FILED MARCH 22, 2012
AND
ORDER REMANDING CASE TO THE UNEMPLOYMENT COMPENSATION
REVIEW COMMISSION

Rendered this 11th day of April, 2012

SERROTT, J.

This matter is before the Court on Appellee’s Motion for Remand filed March 22, 2012. The Motion is unopposed.

Appellant initiated this administrative appeal pursuant to R.C. 4141.282, seeking reversal of Appellee’s Order denying her Request for Review, which had the effect of affirming the Unemployment Compensation Review Commission’s finding that she was overpaid benefits. Appellee now requests the Court to remand this matter to the Unemployment Compensation Review Commission for the reason that, despite due diligence, it cannot produce a transcript of the underlying hearing that occurred before the Commission, which was recorded, as there is “no audio available.”

Under R.C. 4141.282(F)(1) “the commission, within forty-five days after a notice of appeal is filed or within an extended period ordered by the court, shall file with the clerk a

certified transcript of the record of the proceedings at issue before the commission.” However, R.C. 4141.282(F)(2) provides: “If the commission cannot file the certified transcript of the record of proceedings within forty-five days after a notice of appeal is filed, or within an extended period ordered by the court, then the court shall remand the matter to the commission for additional proceedings in order to complete the record on appeal. The additional proceedings may include a new hearing before the commission or a designated hearing officer.”

In *1-70 & 310 Auto Care v. Shupe*, 10th Dist. Nos. 03AP-578, 03AP-583 (Dec. 16, 2003), a certified transcript was similarly unavailable due to a problem with the audio recording, and the Tenth District Court of Appeals ruled that “the appropriate course for the trial court was to remand the matter to the review commission * * * and, assuming the review commission is still unable to provide a certified transcript of the hearing * * *, to order that agency to conduct a new hearing[.]”

In adhering to the above statutory and binding authority, Appellee’s Motion is GRANTED. The Court hereby ORDERS this action REMANDED to the Unemployment Compensation Review Commission to conduct a new hearing.

IT IS SO ORDERED.

Copies to (via e-filing notification):

Brian Duncan
Elliot Garvey
Counsel for Apellant

Yvonne Tertel
Counsel for Appellee

Franklin County Court of Common Pleas

Date: 04-11-2012
Case Title: JODIE MACHADO -VS- OHIO STATE DEPT JOB FAMILY
SERVICES DIRE ET AL
Case Number: 12CV001826
Type: DECISION/ENTRY

It Is So Ordered.

The image shows a handwritten signature in black ink that reads "Mark Serrott". The signature is written over a circular blue seal. The seal contains the text "COMMON PLEAS COURT" at the top, "FRANKLIN COUNTY, OHIO" in the middle, and "ALL THINGS ARE POSSIBLE" at the bottom.

/s/ Judge Mark Serrott

Court Disposition

Case Number: 12CV001826

Case Style: JODIE MACHADO -VS- OHIO STATE DEPT JOB FAMILY SERVICES
DIRE ET AL

Case Terminated: 18 - Other Terminations

Motion Tie Off Information:

1. Motion CMS Document Id: 12CV0018262012-03-2299980000
Document Title: 03-22-2012-MOTION
Disposition: MOTION GRANTED