

FILED
MIAMI COUNTY
COMMON PLEAS COURT

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JAN A. MOTTINGER
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IN THE COMMON PLEAS COURT
OF MIAMI COUNTY, OHIO
GENERAL DIVISION

JULIE D. MANUEL : CASE NO. 11-915
Appellant, : Judge Robert J. Lindeman
VS. :
UNEMPLOYMENT COMPENSATION : JUDGMENT ENTRY
REVIEW COMMISSION, et al. :
Appellees.

This matter came on for consideration pursuant to O.R.C. 4141.282(H) and Loc.R. 14, upon the Appellant's appeal from a decision of the Unemployment Compensation Review Commission, mailed November 30, 2011, disallowing the claimant's request for review of the hearing officer's decision finding the claimant received unemployment benefits in the amount of \$6,749.00 when she was ineligible to receive the same.

The ineligibility stemmed from the fact the claimant had unreported earnings which she withheld (or did not disclose) with the intent of obtaining unemployment compensation benefits to which she was not entitled.

BACKGROUND

The claimant filed an on-line application for unemployment benefits on July 1, 2009, indicating she holds a masters degree and worked in management. The claimant further listed her email address as goukcats@gmail.com.

On July 20, 2009, notice of an award was issued to the claimant for the benefit period July 28, 2009 to June 26, 2010.

On March 22, 2011 a notice was issued to the claimant finding that she had unreported earnings with Ohio Hospital Association from October 10, 2009 to April 3, 2010, which information she withheld with the intent of obtaining benefits to which she was not entitled.

The claimant was further ordered to repay the overpaid benefits in the amount of \$6,749.00.

The claimant appealed this finding and the matter came on for hearing on October 19, 2011 with the claimant participating.

At the hearing, the claimant initially testified she was on medical leave from Miami County Mental Health Center (MCMHC) in October 2009 when MCMHC reported she was working part-time. She later acknowledged in her testimony she worked for the Crisis Center during this time period (Tr. 7), but she did not work at the Outpatient Center (both parts of MCMHC).

The claimant then testified she did not know why she had answered no to internet questions regarding her earnings during this period even though she was working part-time.

The claimant also testified she had talked to a representative (from the Youngstown office) and it was her understanding she could work up to 20 hours per week. However, she acknowledged the (unknown) representative never told her she did not have to

report the part-time earnings (Tr. 8). The claimant then testified she thought she had reported the earnings, and characterized the omission as a mistake or a misunderstanding (Tr. 9-10).

The evidence in the case also established the claimant was notified by email on March 11, 2011 of the agency's receipt of information regarding her undisclosed earnings but she did not respond.¹

ANALYSIS

Under O.R.C. Section 4141.282(H), if the Court finds the decision of the commission was unlawful, unreasonable or against the manifest weight of the evidence, it shall review, vacate or modify the decision * * * otherwise the Court shall affirm * * *.

The Court is not permitted to make factual findings or reach credibility determinations.²

The Court must determine whether the commission's decision is supported by the evidence in the record.

In the present case, there was competent, credible evidence supporting the commission's decision. The hearing officer rejected the claimant's statement that the failure to report the part-time earnings was a mistake or a misunderstanding. Inferentially, the evidence supported the officer's conclusion that the well-educated claimant withheld reporting her earnings with MCMHC with the intent of obtaining benefits, to which she was not entitled.

¹The notice was sent to goukcats@gmail.com and asked the claimant if she wished to request a meeting or had a response to the allegation of undisclosed earnings (Tr. 11).

²*Irvine v. Unemp. Comp. Bd. of Review* (1985), 19 Ohio St.3d 15, 18.

The records from the Ohio Hospital Association reflect that in a number of weeks, the claimant was making more money working part-time than the benefit amounts she was receiving.

The initial award notice issued July 20, 2009, which the claimant does not deny receiving, notified her that the Agency (Unemployment Compensation Agency) found she was working part-time and her gross earnings were less than the weekly benefit amount. The claimant never corrected this erroneous conclusion which was drawn from her application.

In addition, when notified of the earnings incorrectly reported and given a chance to respond, the claimant did nothing. (See fact finding information form attached to the April 8, 2011 Determination Notice, Director's Redetermination.

The Court finds the conclusions reached by the State of Ohio Unemployment Compensation Review Commission are supported by the certified record, and the decision of the commission is affirmed.



ROBERT J. LINDEMAN, JUDGE

cc: Julie D. Manuel
Robin A. Jarvis