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CINDY A. HOFNER

IN THE COURT OF COMMON PLEAS  
WOOD COUNTY, OHIO

Charlene G. Judy-Horen,

Plaintiff/Appellant,

vs.

State Bank & Trust Company, Inc., et al.,

Defendants.

Case No. 2011CV0754

Hon. Robert C. Pollex

OPINION AND JUDGMENT

This matter comes before the Court on an appeal from the decision of the Unemployment Compensation Review Commission ("UCRC") affirming a prior redetermination of the Director of Ohio Department of Job and Family Services disallowing Plaintiff's application for unemployment compensation benefits based on a finding that Plaintiff was discharged from her employment with The State Bank & Trust Company, Inc. ("The State Bank") for just cause. Having reviewed the certified administrative record and the briefs filed, the Court finds that the decision of the UCRC was not unlawful, unreasonable, or against the manifest weight of the evidence, therefore, it must be affirmed.

Opinion

Plaintiff worked as a customer service specialist for The State Bank, Walbridge, Ohio branch. A newly-hired employee assigned to the Walbridge Branch reported to the district Sales Manager that the tellers at the Walbridge location maintained a "kitty", a cash reserve kept in a

**JOURNALIZED**

MAY 23 2012

Vol. \_\_\_\_\_ Pg \_\_\_\_\_

drawer in the bank, which was prohibited by bank policy. Bank officers investigated and confirmed the existence of the "kitty". They found the "kitty" containing approximately \$15 worth of coins and, in addition, they discovered two envelopes with coins inside and one of the envelopes was labeled with a customer's name outside written in Plaintiff's handwriting.

The bank officials questioned Plaintiff regarding her knowledge of the "kitty" and the envelopes. The parties have differing versions of Plaintiff's reaction to the questioning. At the UCRC hearing, the bank officials testified that Plaintiff initially denied any knowledge of the "kitty" or the envelopes, but ultimately admitted that she was aware of its existence. Plaintiff disputes this fact and represents that she never denied any knowledge of the cup. When asked about the envelopes, she indicated that she was "pretty well shaken with everything that was happening and \*\*\* wasn't sure of the handwriting."

Three weeks later, bank officers informed Plaintiff that she was being discharged from employment for not being truthful regarding the investigation. One other employee was also discharged, but a third employee received only a three-day suspension because she did not deny knowledge of the "kitty".

Plaintiff applied for but was denied unemployment benefits. She appealed the denial to the Unemployment Compensation Review Commission ("UCRC"). The UCRC affirmed the decision of the ODJFS Director and concluded that Plaintiff was discharged by State Bank for just cause and, therefore, not entitled to unemployment compensation. Plaintiff further appealed the decision to this Court of Common Pleas. She alleges that she is entitled to unemployment compensation because she was discharged without just cause and her discharge was actually the result of a reduction in force.

**JOURNALIZED**

MAY 23 2012

When reviewing a decision of the UCRC, the Court is confined to a narrow standard of review. Pursuant to R.C. 4141.282, “[t]he 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.” In other words, the Court may reverse the UCRC’s “just cause” determination only if it is unlawful, unreasonable or against the manifest weight of the evidence.

The ultimate issue before this Court is whether Plaintiff was discharged for just cause. Central to this determination is the initial material factual question whether Plaintiff lied about the kitty at any time during the investigation. The UCRC hearing transcript shows that Plaintiff denied lying about the kitty or the envelopes; but the bank officers who questioned Plaintiff testified that Plaintiff initially denied any knowledge about the existence of the kitty and the envelopes. The record discloses that the UCRC resolved this factual dispute in favor of The State Bank and found that Plaintiff “was not initially honest when questioned regarding her knowledge of the kitty or her awareness of the two envelopes containing funds that were found near the kitty.” The Court cannot differ in this factual finding. “The resolution of purely factual questions is for the UCRC and its officers.” *McCarthy v. Connectronics, Corp.*, 183 Ohio App.3d 248, 2009-Ohio-3392, 916 N.E.2d 871, ¶10, citing, *Brown-Brockmeyer Co. v. Roach* (1947), 148 Ohio St. 511, 518, 36 O.O. 167, 76 N.E.2d 79. “On review of purely factual questions, the common pleas court is limited to determining whether the UCRC hearing officer’s determination is supported by the evidence in the record. \* \* \* Factual findings supported by some competent, credible evidence going to the essential elements of the controversy must be

**JOURNALIZED**

MAY 23 2012

Vol. \_\_\_\_\_ Pg \_\_\_\_\_

affirmed. \* \* \* \*” *Britenriker v. Reivello*, 6<sup>th</sup> Dist. App. No. F-10-024, 2011-Ohio-3490, ¶15. Since the UCRC’s factual finding was supported by competent, credible evidence, the Court must affirm its determination.

Having found that Plaintiff was not initially honest, the UCRC concluded that Plaintiff was terminated for just cause in connection with work because “[i]t is reasonable for a financial institution to expect individuals who handle money to be honest and to provide honest answers during an investigation. [Plaintiff’s] actions were contrary to the employer’s best interests and represent misconduct that will serve to suspend her unemployment compensation benefits.” Plaintiff asks the Court in this appeal to reverse the UCRC’s decision and determine that she was terminated due to corporate downsizing, not just cause. However, Plaintiff fails to assert any basis for reversal.

As stated earlier in this opinion, the Court must uphold the UCRC’s decision unless it is unlawful, unreasonable, or against the manifest weight of the evidence. Nowhere in the Plaintiff’s briefs did the Court find any indication that the UCRC’s determination was unlawful, unreasonable, or against the manifest weight of the evidence. To the contrary, the findings of fact are supported by the record. It is undisputed that The State Bank had a policy against maintaining a “kitty” and keeping unaccounted-for funds or change. Plaintiff knew about this policy. Not only did she violate the policy, bank officers who questioned her stated that she initially lied about it. Based on the evidence and this Court’s narrow scope of review, the Court has no authority to reverse the UCRC’s finding of just cause.

“Just cause” is “conduct that would lead a person of ordinary intelligence to conclude the surrounding circumstances justified the employee's discharge.” *Carter v. Univ. of Toledo*, 6th

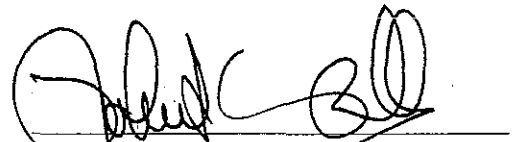
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MAY 23 2012

Dist. No. L-07-1260, 2008-Ohio-1958, 2008 WL 1837254, ¶ 10. “The Supreme Court has held that a just cause determination is appropriate only if there is fault on the part of the employee. \* \*  
\* Where an employee exhibits ‘unreasonable disregard for [the] employer's best interests,’ it is appropriate to find that there was employee fault, and that the discharge was for just cause.”  
*Oriana House, Inc. v. Terrell*, 9<sup>th</sup> Dist. App. No. CA 19550 (Mar. 15, 2000). AS the UCRC noted in its decision, “[i]t is reasonable for a financial institution to expect individuals who handle money to be honest and to provide honest answers during an investigation.” Any reasonable person would agree that a bank employee’s integrity, honesty, and trustworthiness are required standards of conduct in a job that requires handling money. For the UCRC to conclude that Plaintiff acted contrary to The State Bank’s best interests is not unreasonable or against the manifest weight of the evidence.

IT IS TEHREFORE ORDERED, ADJUDGED, AND DECREED that the Unemployment Compensation Review Commission’s decision of August 10, 2011 disallowing request for review be, and it is hereby, affirmed. The Court upholds the Unemployment Compensation Review Commission’s determination that Plaintiff was terminated for just cause in connection with work and, therefore, not entitled to unemployment compensation benefits.

CLERK TO FURNISH TO ALL COUNSEL  
OF RECORD AND UNREPRESENTED PARTIES  
NOT IN DEFAULT FOR FAILURE TO APPEAR  
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Hon. Robert C. Polley

Judgment for court costs  
rendered to Wood County

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MAY 23 2012