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IN THE COURT OF COMMON PLEAS OF RICHLAND COUNTY, OHIO

ANGEL M. JOHNSON,	:	
	:	Case No. 2011-CV-1591-H
Plaintiff-Appellant,	:	
vs.	:	
	:	
BESTWAY TRANSPORT COMPANY, INC.,	:	<u>JUDGMENT ENTRY</u>
et al.,	:	
	:	
Defendants-Appellees.	:	

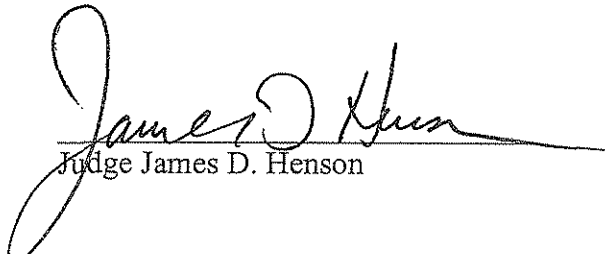
This matter comes before the Court upon the administrative appeal of plaintiff-appellant, Angel M. Johnson (hereinafter "appellant"), from the decision of the Unemployment Compensation Review Commission denying her unemployment compensation benefits upon the grounds that she was discharged from her employment with defendant-appellee, Bestway Transport Company, Inc., for just cause in connection with work. The Court has reviewed the matters in the record before it, including the transcript of the telephone hearing held October 3, 2011 and the Review Commission Hearing Officer's decision mailed October 4, 2011. The Court further applies the standard of review set forth in R.C. 4141.282(H) and defers to the Review Commission and its Hearing Officer's findings of fact. For the reasons set forth below, this Court finds that, based upon the facts as determined, the decision of the Review Commission that appellant was discharged with just cause in connection with her work was unlawful, unreasonable and against the manifest weight of the evidence and therefore must be reversed.

The discharge of appellant from her employment as a transportation broker at Bestway was centered entirely around a conversation between appellant and Richard Myers, Bestway's owner, which took place on May 27, 2011. During that conversation, appellant accused Mr. Myers of being "hostile," "discriminating" and "always blaming others." Whether appellant's accusations were true or were supported by any evidence other than appellant's testimony is not relevant. It is the appellant's conduct, not the employer's, which is germane to the issue of appellant's discharge from employment in the case at bar. The Hearing Officer concluded that appellant's statements to Myers were "unreasonable and unprovoked" and that appellant was "hostile and had an insubordinate attitude toward Mr. Myers." Myers' own testimony, however, was only that appellant's tone of voice "went up," to the point of being "snippy," and that his decision to fire her, a valuable employee, was because of her "attitude" and "tone of voice" during the conversation. Myers himself did not describe appellant's action as hostile or insubordinate. Moreover, there was no evidence presented of any prior instances in which appellant had engaged in any similar conduct.

The Court finds that the conduct and statements made by appellant on May 27, 2011 did not rise to the level of misconduct sufficient to warrant her discharge from employment. Regardless of the validity of appellant's accusations against her employer, which are not relevant here, appellant's "attitude" and "tone of voice" displayed during her conversation with Mr. Myers were not characterized as "hostile" or "insubordinate" by the employer. The Court holds that appellant's attitude and tone of voice displayed to Myers on this single occasion is not misconduct or fault in connection with her work. Appellant's discharge from employment was not, therefore, based upon just cause in connection with work sufficient to deny her unemployment compensation benefits for which she is otherwise eligible. The Decision of the

Unemployment Compensation Review Commission is hereby reversed and appellant is found to be eligible for unemployment compensation benefits commencing May 27, 2011.

IT IS SO ORDERED.


Judge James D. Henson

cc: Lefton, David
Carto, David
Bestway Transport Co.

SERVED BY Deputy Clerk: B.S.
On the ___ day of _____, 5-24-12