

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

SANDRA J. GOBELY,)	
Plaintiff-Appellant,)	CASE NO. 2011 CV 01794
)	
vs.)	JUDGE ANDREW D. LOGAN
)	
DIRECTOR, OHIO DEPARTMENT OF)	JUDGMENT ENTRY
JOB AND FAMILY SERVICES, et al.,)	
)	
Defendants-Appellees.)	

This matter is before the Court on an administrative appeal by Plaintiff-Appellant Sandra J. Gobely (“Appellant”) from the decision of the Ohio Unemployment Compensation Review Commission (“Review Commission”) denying unemployment compensation benefits to Appellant, a former employee of Defendant-Appellee West Customer Management Group, LLC (“Appellee West”).

Appellant worked as a customer service representative for Appellee West from February 2010 until her discharge on December 10, 2010. Appellant applied for unemployment compensation benefits, and in February 2011, Defendant-Appellant Director, Ohio Department of Job and Family Services (“ODJFS”) allowed her application, determining that Appellant had been discharged without just cause in connection with work. Appellee West appealed this determination, and a hearing was held before a Hearing Officer of the Review Commission on May 13, 2011. On May 18, 2011, the Hearing Officer issued a decision reversing the ODJFS determination, finding the Appellant had been discharged for good cause in connection with work and requiring Appellant to repay to ODJFS the \$3,984.00 in benefits she had received. The Review Commission denied Appellant’s request for review and Appellant filed her appeal to this Court in August 2011.

In the sole issue raised here, Appellant contends that Review Commission Hearing Officer failed to conduct a fair and impartial hearing and thereby deprived her of due process. In this regard, Appellant cites excerpts from the hearing transcript which she claims demonstrate that the Hearing Officer “basically acted as the employer’s counsel” and “essentially established the employer’s factual and legal case and directed the employer’s responses.” The Court has reviewed the transcript and disagrees with Appellant’s characterization of the Hearing Officer’s conduct. It is true, as Appellant claims, that the Hearing Officer “explained the standard of law and what the employer needed in order to prove its case.” Such conduct, however, is not improper, but instead, is wholly consistent with the hearing officer’s obligation to “advise each party as to rights, aid in examining and cross-examining witnesses, and give every assistance compatible with the discharge of the official duties of the review commission or hearing officer.” OAC §4146-7-02(D).

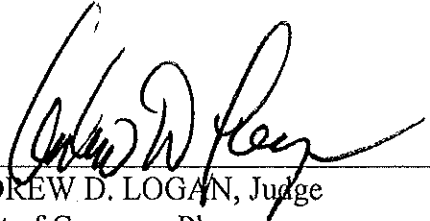
Appellant also complains that the Hearing Officer “ask[ed] leading question gearing the employer’s responses towards the standard of law he advised the employer.” Hearing officers, however, “are not bound by common law or statutory rules of evidence or by technical or formal rules of procedure,” R.C. §4141.281(C)(2), and have broad discretion in conducting the hearing. *Owens v. Ohio Bur. of Emp. Serv.* (1999), 135 Ohio App. 3d 217, 220, 733 N.E. 2d 628. Moreover, Appellant’s counsel did not object to any leading questions and the record reveals that Appellant herself was asked several leading questions by the Hearing Officer. Finally, the transcript itself simply does not support Appellant’s suggestion that the Hearing Officer “directed” the employer’s representative’s responses in an effort to aid the employer’s case. Rather, the Hearing Officer’s questioning appeared properly focused on ascertaining the facts necessary to determine whether Appellant was entitled to unemployment compensation benefits.

Appellant correctly cites *Bulatko v. Director, ODJFS*, 7th Dist. No. 07 MA 124, 2008-Ohio-1061, for the proposition that a hearing officer “has no duty to present or establish a party’s case.” The *Bulatko* Court, however, made that observation in rejecting the claimant’s argument that the hearing officer should have done *more* to assist her in the presentation of her case. *Bulatko*, at ¶¶27-28. Moreover, the Court went on to observe that “the key factor in deciding whether the hearing satisfied procedural due process is whether the claim had the opportunity to present the facts which demonstrate that she was entitled to unemployment benefits.” *Id.* at ¶28. Here, Appellant does not claim, nor does the record indicate, that Appellant was in any way prevented from presenting evidence in support of her claim of entitlement to benefits.

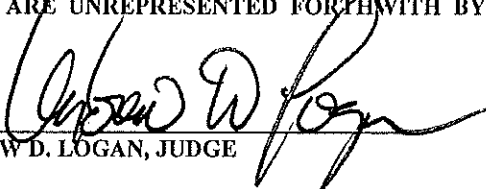
For the reasons thus stated, the Court finds that the decision of the Review Commission was not unlawful, unreasonable or against the manifest weight of the evidence. It is therefore ORDERED, ADJUDGED, and DECREED that Appellant’s appeal from Appellee’s decision is hereby denied.

IT IS SO ORDERED.

DATE May 24, 2012


ANDREW D. LOGAN, Judge
Court of Common Pleas
Trumbull County, Ohio

TO THE CLERK OF COURTS: YOU ARE ORDERED TO SERVE COPIES OF THIS JUDGMENT ON ALL COUNSEL OF RECORD OR UPON THE PARTIES WHO ARE UNREPRESENTED FORTHWITH BY ORDINARY MAIL.


ANDREW D. LOGAN, JUDGE

FILED
COURT OF COMMON PLEAS

MAY 25 2012

TRUMBULL COUNTY, OH
KAREN INFANTE ALLEN, CLERK