

IN THE COURT OF COMMON PLEAS
STARK COUNTY, OHIO

FELICIA PROWELL,

Appellant,

v.

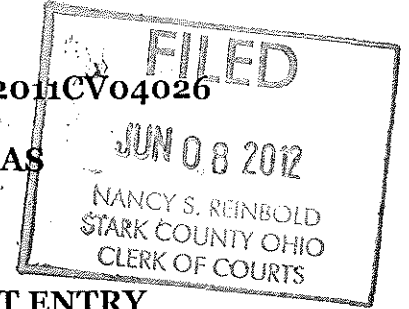
UC REVIEW COMMISSION, et al.,

Appellee.

) CASE NO. 2011CV04026

) JUDGE HAAS

) JUDGMENT ENTRY



This matter came on for consideration upon a claim for unemployment compensation benefits filed by Appellant Felicia Prowell. The Ohio Unemployment Compensation Review Commission (“Review Commission”) denied unemployment compensation to Ms. Prowell. Appellant filed a Notice of Appeal with this Court. On April 23, 2012, Appellant filed a brief in support of her appeal. On May 10, 2012, Appellee Director, Ohio Department of Job and Family Services (“ODJFS”) filed its brief. Thereafter, Appellant filed a reply.

Procedural History

On July 18, 2011, Appellee Director issued an initial determination, holding that Appellant quit her employment without just cause, and disallowed her application for benefits. Because Claimant had not provided “medical evidence . . . to establish the claimant’s ability to engage in other types of employment”, the Director held that Appellant failed to meet the ability requirements of R.C. 4141.29(A)(4), and therefore would have been ineligible for benefits until such evidence was presented.

Appellant filed a timely appeal. In a redetermination decision issued on August 10, 2011, the Director affirmed the decision, holding that Appellant quit her employment without just caused and disallowed her application for benefits.

Appellant filed a timely appeal of the Director's redetermination decision. And the Director transferred jurisdiction to the Review Commission. A hearing was held before a hearing officer on September 30, 2011. Based on the evidence, the hearing officer found the Appellant quit her employment without just cause, and was therefore ineligible for unemployment compensation benefits. The hearing officer further modified the Director's prior decision regarding Appellant's ability to work, and held that she was unable to work from January 28, 2011 through May 4, 2011.

Appellant appealed the hearing officer's decision. The review Commission disallowed Appellant's request. It is from this decision that claimant now appeals to this Court.

Prowell's FMLA Leave

Appellant worked as a sales manager for Employer beginning in October, 2009. On January 28, 2011, Appellant requested FMLA leave. When Appellant completed her paperwork for the leave, the request stated "ASAP" in the section on the paperwork that identified the date the leave was to start. Appellant's chiropractor estimated that Appellant would require leave from January 28, 2011 through March 1, 2011.

On March 11, 2011, the Employer emailed Appellant a compliance letter, which requested complete certifications from her treating doctors, as not all had yet been received. The letter also requested information concerning Appellant's expected return to work date. Appellant emailed the Employer back on March 14, 2011. In the email she stated that in about 10 days she had an appointment with her doctor and she would speak with the doctor at that time regarding a return to work date. The Employer never heard back from Appellant. The Employer

calculated the 12-week expiration of Appellant's FMLA leave to be April 21, 2011. Prior to the expiration date, the Employer did not receive any physician's letter stating that Appellant would be unable to return to work at that time.

On May 5, 2011, the Employer sent a letter to Appellant indicating that pursuant to Company policy, because she had not returned upon the expiration of her FMLA leave, she was considered to have voluntarily resigned as of April 21, 2011. Prior to April 21, 2011, the Employer did not notify Appellant in writing or otherwise that her FMLA leave would expire on April 21, 2011.

Standard of Review

Unemployment compensation appeals are error proceedings, not proceedings *de novo*.¹ This Court has the duty to determine whether the Review Commission's decision is supported by law and facts.² A decision supported by some competent, credible evidence will not be reversed as being against the manifest weight of the evidence.³

The Ohio Bureau of Employment Services can deny a claimant/employee unemployment benefits if the claimant/employee quits his job without just cause or has been discharged for just cause in connection with his work. R.C. §4141.29(D)(2)(a). "Just cause" is defined as "that which, to an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act."⁴ The *Irvine* Court further stated that "each case must be considered upon its particular merits."⁵

¹ *Hall v. American Brake Shoe Co.* (1968), 13 Ohio St.2d 11, 13-14.

² *Irvine v. Unemp. Comp. Bd. of Review* (1985), 19 Ohio St.3d 15, 17.

³ *Angelkovski v. Buckeye Potato Chips Co.* (1983), 11 Ohio App.3d 159.

⁴ *Irvine v. Unemp. Comp. Bd. of Review* (1985), 19 Ohio St.3d at 17, quoting *Peyton v. Sun T.V.* (1975), 44 Ohio App.2d 10, 12

⁵ *Id.* at 17.

A reviewing court may reverse “just cause” determinations “if they are unlawful, unreasonable, or against the manifest weight of the evidence.”⁶ A Review Commission’s decision cannot be reversed simply because reasonable minds might reach different conclusions.⁷

Decision not Unlawful, Unreasonable, or Against the Manifest Weight of the Evidence

In her appeal to this Court, Prowell testified that she believed her 12 weeks of FMLA leave would have taken her into May, 2011. She testified that she had actually worked until February 4, 2011, and was calculating her 12 weeks from that date. However, even using the February 4, 2011, Appellant’s leave would have expired on April 29, 2011. Further, even if Appellant had some confusion as to her permitted leave, she had a duty to clear any misunderstandings with her Employer.

While Appellant’s physician provided a letter that she was unable to return to work until May 4, 2011, this letter was not prepared until July, 2011, after the administrative process was underway. The Review Commission, the factfinder in this matter, issued its decision provided at the September 30, 2011 hearing, and upon all the Exhibits that have been made a part of the official record. The Hearing Officer weighed the evidence and reached a decision. The law prohibits this Court for substituting its judgment for that of the Review Commission and reversing when the decision is supported by the facts and evidence.

Based upon the evidence in the administrative record and the evidence presented at the hearing, the Review Commission’s determination that Prowell

⁶ *Tzangas, Plakas & Mannos (1995)*, 73 Ohio St.3d 694 quoting Irvine, supra.

⁷ *Id.* at 697.

quit her employment without just cause is supported by the law and facts and is not unlawful, unreasonable, or against the manifest weight of the evidence.

Accordingly, it is hereby

ORDERED, ADJUDGED and DECREED that the Review Commission's Decision is hereby **AFFIRMED**. This is a final appealable order and there is no just cause for delay.

IT IS SO ORDERED.



JOHN G. HAAS, JUDGE

To: Atty. Susan M. Sheffield
Ms. Felicia Prowell, pro se