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IN THE COURT OF COMMON PLEAS
PICKAWAY COUNTY, OHIO

CLERK OF COURTS
PICKAWAY COUNTY

Kathy A. Ritchie,	:	
	:	CASE NO. 2011-CI-0377
Appellant,	:	
	:	JUDGE P. RANDALL KNECE
-vs-	:	
Director, ODJFS, et al.,	:	
	:	<u>DECISION AND ENTRY</u>
Appellees.	:	(Final Appealable Order)

Kathy A. Ritchie ("Employee") has appealed a decision of the Ohio Unemployment Compensation Review Commission ("Commission") disallowing her request for review of a decision by a hearing officer.

Employee left her job with SunHealth Specialty Services, Inc. (Employer) and subsequently applied for unemployment compensation benefits. Employer did not oppose her application and did not participate in the hearing. The Ohio Department of Job and Family Services (ODJFS) determined that she quit her job without just cause in connection with work. Employee appealed the decision and jurisdiction was transferred to the Commission for a hearing. The Hearing Officer issued a decision, finding that Employee had quit work without just cause and was not entitled to unemployment compensation benefits. Her request for review was disallowed.

Having exhausted her administrative remedies, Employee's appeal is now before this Court. The transcript and appropriate briefs have been filed and this matter is ready for decision.

Upon appeal of a Commission decision, this Court must affirm the Commission's decision unless that decision is unlawful, unreasonable, or against the manifest weight of the

evidence. See, O.R.C. Section 4141.28; Tzangas, Plakas & Mannos v. Ohio Bur. Of Emp. Serv. (1995), 73 Ohio St.3d 694, 1995-Ohio-206. Under this standard of review, this Court must affirm the Commission's finding if some competent, credible evidence in the record supports it. Central Ohio Joint Vocation School Dist. Bd. Of Educ. V. Administrator (1986), 21 Ohio St.3d 5. Even on close questions, "where the board might reasonably decide either way, the courts have no authority to upset the board's decision." Irvine v. State Unemployment Comp. Bd. Of Review (1985), 19 Ohio St.3d 15, citing Charles Livingston & Sons, Inc. v. Constance (1961), 115 Ohio App. 437.

O.R.C. Section 4141.29 establishes the eligibility requirements for unemployment benefits. O.R.C. Section 4141.29(D)(2)(a) provides that an employee is not entitled to unemployment compensation benefits for the entire duration of unemployment if "he quit his work without just cause or has been discharged for just cause in connection with his work." Clearly, quitting work to avoid being discharged for just cause constitutes quitting work without just cause since an employee cannot avoid the inevitable consequences of his own wrongdoing by resigning. Conversely, however, an employee quits his work with just cause if he quits at the urging of his employer who suggests that otherwise the employee will be unjustifiably discharged.

"Traditionally, just cause, in the statutory sense, is that which, to an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act." Irvine v. Unemp. Comp. Bd. Of Review (1985), 19 Ohio St.3d 15.

Upon review, this Court rejects Employee's argument that the Review Commission's decision was unreasonable and against the weight of the evidence. The transcript from the hearing shows that the Hearing Officer specifically asked: "Did you resign your position?"

Response: "I did, because I had been written up three times in the last three months and um was going to be terminated, so I resigned." She further stated when asked if there was anything else she would like to add: "Well no, just my three write ups and um the last one stated one more write up and I would be terminated." Evidence reveals that the Employee anticipated that she would be terminated because she was unable to meet the deadlines that her Employer had established for filing certain reports.

The Employee was not faced with imminent discharge since she resigned prior to missing the deadline for the bad debt report. Also, there is no evidence that the Employer urged her to resign prior to any possible termination. Therefore, it was not a "resign" or "be fired" situation initiated on the part of the Employer. Employee's resignation was without just cause.

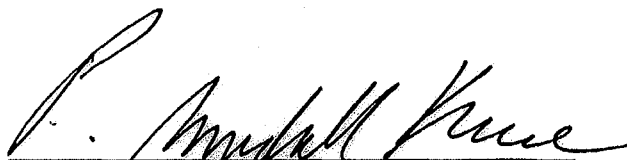
This Court agrees with the Findings of Fact and the Reasoning set forth by the Hearing Officer in the Review Commission's Decision mailed July 25, 2011.

Based upon the foregoing, this Court concludes that the record contains some competent, credible evidence to support the Commission's decision to deny Ms. Ritchie unemployment benefits. Therefore, the Commission's decision is not unlawful, unreasonable, or against the manifest weight of the evidence.

Kathy A. Ritchie's Appeal is hereby **DENIED**. This Court hereby affirms the Decision of the Commission that Ms. Ritchie is not entitled to benefits.

This is a final appealable order and within three (3) days of the entering of this Judgment upon the Journal, the Clerk of this Court shall serve the parties as provided for in Civil Rule 5(B) with notice of the filing of a final appealable order and note such service upon the appearance docket pursuant to Civil Rule 58.

IT IS SO ORDERED. Costs to Appellant.



P. RANDALL KNECE, JUDGE

Date: _____

6/19/12

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