

DANIEL M. HERRINGTON

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SUMMIT COUNTY  
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

ROGER MARKS,	)	CASE NO. CV 2012 01 0093
	)	
Plaintiff-Appellant,	)	JUDGE TAMMY O'BRIEN
	)	
VS.	)	
	)	
BELENKY, INC., <i>et al.</i> ,	)	<b><u>JUDGMENT ENTRY</u></b>
	)	
Defendants-Appellees.	)	
	)	

This matter involves an administrative appeal from the Ohio Unemployment Compensation Review Commission ("Review Commission") pursuant to R.C. 4141.282. The Review Commission disallowed Plaintiff-Appellant Roger Marks' ("Marks") request for unemployment benefits. Marks' request was disallowed because the Review Commission found that Marks was discharged from his employment by Appellee Belenky, Inc. ("Employer" or "Belenky") for just cause under R.C. 4141.29(D)(2)(a). In this action, Marks appeals from the Review Commission's Final Decision denying his claim for unemployment benefits.

On May 3, 2012, Belenky filed a "Notice of Withdraw of Objections." As set forth in Belenky's Notice, the employer has withdrawn "any objections that it has with respect to Appellant Roger Marks' receipt of unemployment benefits." See Notice of Withdraw of Objections at 1.

The Court has considered Marks' Brief, the Brief of Appellee, Director, Ohio Department of Job and Family Services ("Director" or "ODJFS"), Belenky's Notice of Withdraw of Objections, the facts of this matter, R.C. 4141.282, and applicable law.

Upon due consideration, and in light of Belenky's recent withdraw of objections, pursuant to R.C. 4141.282(H) this matter is REMANDED to the Review Commission for further consideration.

### ANALYSIS

Belenky employed Marks from May 26, 2009 until June 21, 2011. *See* October 3, 2011 Transcript of Testimony at 4. Marks was terminated on June 21, 2011 for alleged insubordination. *Id.* at 5.


Belenky representatives testified before the Review Commission as to Marks' alleged insubordination. Since that time, Belenky has withdrawn all objections. As set forth in its May 3, 2012 Notice, Belenky "withdraws any objections that it has with respect to Appellant Roger Marks' receipt of unemployment benefits." *See* Notice at 1.

A trial court may remand a matter to the Review Commission pursuant to R.C. 4141.281(H). In light of Belenky's recent change of position, and pursuant to R.C. 4141.281(H), this matter is hereby REMANDED to the Review Commission for further review and consideration.

### CONCLUSION

In light of Belenky's recent change of position, and pursuant to R.C. 4141.281(H), this matter is REMANDED to the Review Commission for further review and consideration.

IT IS SO ORDERED.

  
JUDGE TAMMY O'BRIEN

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