

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO

CHRISTINA T. SHAMPTON,

Appellant,

-vs-

OHIO UNEMPLOYMENT COMPENSATION  
REVIEW COMMISSION, et al,

Appellees.

CASE NO. 2012 CV 02876

JUDGE STEVEN K. DANKOF

**FINAL AND APPEALABLE, DECISION,  
ENTRY AND ORDER AFFIRMING THE  
UNEMPLOYMENT COMPENSATION  
REVIEW COMMISSION'S  
DETERMINATION THAT APPELLANT  
QUIT FOR FILIAL OBLIGATION AND  
ORDERING REPAYMENT OF  
BENEFITS**

This matter is before the Court on Appellant Christina<sup>1</sup> Shampton's April 20, 2012 administrative appeal from a decision of the State of Ohio Unemployment Compensation Review Commission ("Review Commission") ("Appellant's Appeal"). On June 1, 2012, a written transcript of the administrative proceedings was filed. Appellant's July 9, 2012 Brief was filed pursuant to the Court's June 11, 2012 Briefing Schedule. On August 9, 2012, the Brief of Appellee Director, Ohio Department of Job and Family Services ("Appellee-ODJFS") and a Motion to Strike Exhibits Attached to Appellant's Administrative Brief were filed.<sup>2</sup> On August 29, 2012, Appellant filed her Reply Brief.<sup>3</sup> This matter is now properly before the Court pursuant to R.C. 4141.282.

**I. STATEMENT OF THE CASE AND FACTS**

On July 22, 2011, Appellant made a claim to Appellee-ODJFS for unemployment compensation<sup>4</sup> stemming from her employment at Everybody's Inc. from August 5, 2010 – May 6, 2011 and DDC Group,

<sup>1</sup> Improperly captioned on Pro as "Christine"

<sup>2</sup> The Court hereby **GRANTS** this motion by reason of which the Court did not refer to exhibits attached to Appellant's brief - R.C. 4141.282 (H).

<sup>3</sup> The Reply was due August 27, 2012 and appears to have been faxed that day. However, it was not filed until August 29<sup>th</sup>.

<sup>4</sup> Determination of Unemployment Compensation Benefits, Dated August 23, 2011.

Inc. from July 5, 2010 – March 5, 2011. On August 23, 2011, the Appellee-ODJFS allowed Appellant's application for unemployment compensation benefits, and issued a decision accordingly.<sup>5</sup>

From October 4, 2011 – November 11, 2011, Appellant was employed by Senior's Resource Center.<sup>6</sup> After voluntarily quitting this employment in order to take care of her mother as discussed more fully below, on December 8, 2011, Appellant made an additional application for benefits.<sup>7</sup> On December 29, 2011, Appellee-ODJFS issued a determination stating Appellant was not eligible for benefits.<sup>8</sup> Appellant appealed that determination, which was affirmed on January 17, 2012.<sup>9</sup> Appellant then appealed the January 17, 2012 redetermination, and Appellee-ODJFS transferred jurisdiction of this matter to the Review Commission for its determination.<sup>10</sup>

On January 27, 2012, a Notice of Telephonic Hearing set for February 9, 2012 at 10:00 a.m. was sent to Appellant by the Review Commission.<sup>11</sup> Appellant called in for the hearing conducted by Hearing Officer Jared Wade.<sup>12</sup> No appearances were made on behalf of Appellee-ODJFS.<sup>13</sup> On March 9, 2012, Hearing Officer Wade issued his decision modifying the January 17, 2012 redetermination, finding Appellant quit her Seniors Resource Center employment for filial obligation.<sup>14</sup>

On March 10, 2012, Appellant requested review of the Review Commission's March 9, 2012 decision, which was denied on March 28, 2012.<sup>15</sup> On April 20, 2012, Appellant initiated this administrative appeal.<sup>16</sup>

Appellant seeks the following in this administrative appeal: 1) a larger award of unemployment compensation based on her professional status in the business community; 2) a finding she was terminated

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<sup>5</sup> *Id.*

<sup>6</sup> Appellant-Shampton previously worked for Seniors Resource Center from November 17, 2009 – June 10, 2010.

<sup>7</sup> This request for benefits is the subject of this instant administrative appeal.

<sup>8</sup> Determination of Unemployment Compensation Benefits, Dated December 29, 2011.

<sup>9</sup> Director's Redetermination, Dated January 17, 2012.

<sup>10</sup> Pursuant to R.C. 4141.281(c).

<sup>11</sup> From the transcript provided to the Court, there were four levels of the administrative review process in this case. First, the claimant-employee applies to the Director of the Ohio Department of Job and Family Services for unemployment compensation. Second, an appeal is made to the same Director for a redetermination. Third, an appeal may be made to the Unemployment Compensation Review Commission, where a hearing officer holds an on the record hearing, and issues a decision. (This level of the administrative process will be referred to as the "hearing officer level"). Fourth, an appeal can be made to the Review Commission for review of the hearing officer's decision. See Ohio Rev. Code § 4141.281.

<sup>12</sup> March 7, 2012, Hearing Transcript, Appeals Docket No. H-2012001954.

<sup>13</sup> *Id.*

<sup>14</sup> March 9, 2012, Decision of State of Ohio, Unemployment Compensation Review Commission.

<sup>15</sup> March 28, 2012, Decision Disallowing Request for Review, State of Ohio, Unemployment Compensation Review Commission.

<sup>16</sup> See Docket, April 20, 2012 Notice of Administrative Appeal.

without just cause; 3) the Court return the costs of filing the instant appeal; and 4) an award of “punitive damages” for her time and stress.

Appellee-ODJFS position is clear, Appellant *quit* Seniors Care Center to care for her mother while she was having surgery (ie. a filial obligation) and therefore is not entitled to unemployment benefits for the same.

The Court hereby reviews this matter.

## II. STANDARD OF REVIEW

A common pleas court sitting in an appellate capacity has a limited power of review.<sup>17</sup> This Court cannot make factual findings or to determine the credibility of witnesses.<sup>18</sup> Rather, this Court’s limited role is to determine whether the Review Commission’s decision is supported by the evidence in the record.<sup>19</sup> Said another way, the Review Commission’s decision cannot be reversed because reasonable minds could have reached a different result based upon the same record.<sup>20</sup>

Courts may reverse, vacate, or modify the Review Commission’s determination regarding “just cause” only if “the decision of the commission was unlawful, unreasonable, or against the manifest weight of the evidence.”<sup>21</sup> Courts have no authority to upset the Review Commission’s decisions on close questions, i.e., where the Review Commission might reasonably decide either way.<sup>22</sup> Courts should only reverse a Review Commission determination reaching an unreasonable conclusion from essentially undisputed evidence at the administrative hearing.<sup>23</sup>

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<sup>17</sup> *Irvine v. The State of Ohio, Unemployment Comp. Bd. of Rev.*, 19 Ohio St.3d 15, 18, 482 N.E.2d 587 (1985).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> R.C. 4141.282; see also *Irvine*, 19 Ohio St.3d at 17-18; *Tzangas v. Admr., Ohio Bur. of Emp. Serv.*, 73 Ohio St.3d 694, 653 N.E.2d 1207 (1995), at paragraph one of the syllabus.

<sup>22</sup> *Irvine, supra* at 18.

<sup>23</sup> O.R.C. 2506.04, and *Madison Township Bd. of Trustees. v. Donohoo*, 2<sup>nd</sup> Dist. Montgomery No. 14007, 1994 Ohio App. LEXIS 4595.

### III. LAW AND ANALYSIS

“Just cause”, in the statutory sense, is that which a person of ordinary intelligence would find justifies doing or not doing a particular act.<sup>24</sup>

In any event, “just cause” determinations must be consistent with the legislative purpose underlying the Unemployment Compensation Act<sup>25</sup> - to provide financial assistance to an individual who had worked, was able and willing to work, but was without employment *through no fault of her own*.<sup>26</sup> When an employee is at fault, he is no longer the victim of fortune’s whims, but is instead directly responsible for his own predicament.<sup>27</sup> Obviously, “just cause” determinations depend on the unique facts of each case<sup>28</sup> and the burden of proving entitlement to unemployment compensation falls squarely upon the claimant per R.C. 4141.29 (D)(2)(a).<sup>29</sup>

Importantly, R.C. 4141.29(D)(2)(c) prohibits an individual from receiving unemployment compensation benefits if the “individual quit work to marry or because of marital, parental, *filial*, or other domestic obligations”<sup>30</sup> (emphasis added).

Here, Appellant admits she quit her job at Senior’s Resource Center to care for her mother who had eye surgery on October 15, 2011.<sup>31</sup> Clearly, caring for a parent is a filial obligation.<sup>32</sup> As such, Appellant is not entitled to unemployment compensation and must repay any benefits improperly paid to her.

Appellant’s claims that she was wrongfully “terminated” and that she “had just cause to quit her job” are unfounded in fact and without merit at law. Also, her request for additional compensation, court costs, and punitive damages is not well-taken.

### IV. CONCLUSION

For the reasons detailed herein, the Court hereby **AFFIRMS** the Unemployment Compensation Review Commission’s decision to deny unemployment compensation, finding that Appellant quit her employment

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<sup>24</sup> *Irvine, supra* at 17.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*, citing *Salzly v. Gibson Greeting Cards*, 61 Ohio St.2d 35, 399 N.E.2d 76 (1980).

<sup>27</sup> *Tzangas*, 73 Ohio St.3d 694, 697-698, 1995-Ohio-206, 5653 N.E.2d 1207.

<sup>28</sup> *Id.*

<sup>29</sup> *Irvine, supra* at 5.

<sup>30</sup> R.C. 4141.29(D)(2)(c), *Neff v. Bureau of Unemployment Compensation*, 117 N.E.2d 533 (1953, 2<sup>nd</sup> Dist. Montgomery); *Goodrich v. Ohio Unemployment Comp. Review Comm’n*, 10<sup>th</sup> Dist. No. 11AP-473, 2012-Ohio-467.

<sup>31</sup> Hearing Transcript, P. 9, ll. 13-16.

<sup>32</sup> One the Court considers admirable

for a filial obligation. It is further ordered that Appellant shall repay the previously paid benefits in the amount of \$681.00.

SO ORDERED:

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JUDGE STEVEN K. DANKOF

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Montgomery County Common Pleas Court  
41 N. Perry Street, Dayton, Ohio 45422

**Case Title:** CHRISTINE T SHAMPTON vs OHIO EMPLOYMENT  
COMPENSATION REVIEW COMMISSION  
**Case Number:** 2012 CV 02876  
**Type:** Order:

So Ordered

A handwritten signature in black ink, appearing to read "Steven K. Dankof". The signature is stylized with a large, sweeping flourish at the end.

Steven K. Dankof