

IN THE COURT OF COMMON PLEAS  
MEDINA COUNTY, OHIO

COMMON PLEAS COURT  
2012 NOV 14 PM 3:01

Angela M. Leporati	)	CASE NO. 12CIV0645	FILED DAVID B. WADSWORTH MEDINA COUNTY CLERK OF COURTS
Plaintiff	)		
vs.	)	JUDGE JAMES L. KIMBLER	
Veterinary Referral & Emergency Center of Akron, Inc.	)		
Defendant	)	Judgment Entry with Instructions to the Clerk	

This case is before the court on an administrative appeal from a decision of the Ohio Unemployment Compensation Review Commission. The Commission affirmed a decision of the Ohio Department of Job and Family Services to deny unemployment compensation to Ms. Leporati.

**Standard of Review**

The duty of this Court, when considering such an appeal, is to decide whether the appellant has shown that the decision of the Commission was "unlawful, unreasonable, or against the manifest weight of the evidence". R.C. 4141.282 (H), *Tzangas, Plakas & Mannos v. Administrator, Ohio Bureau of Employment Servs.*, 73 Ohio St. 3d 694 (Ohio 1995).

This Court may not rewrite the Commission's decision merely because it could or would interpret the evidence differently. *Kilgore v. Board of Review*, 2 Ohio App. 2d 69 (Ohio Ct. App., Jackson County 1965). What this Court must determine is whether the decision of the Commission is supported by evidence in the certified record. *Roberts v. Hayes*, 2003 Ohio 5903 (Ohio Ct. App., Summit County Nov. 5, 2003) at ¶12.

The determination of factual questions is primarily for the hearing officer and the Commission. *Brown-Brockmeyer Co. v. Roach*, 148 Ohio St. 511 (Ohio 1947). A common pleas court hearing an appeal pursuant to R.C. 4141.282 cannot reserve the Commission's decision simply because it would have reached a different conclusion based on the evidence heard by the hearing officer. *Roberts v. Hayes*, supra. A reviewing court must affirm if some credible evidence supports the Commission's decision. *C. E. Morris Co. v. Foley Constr. Co.*, 54 Ohio St. 2d 279 (Ohio 1978). A reviewing court must defer to the Commission's determination of purely

factual issues that concern credibility of witnesses and the weight of conflicting evidence. *Angelkovski v. Buckeye Potato Chips Co.*, 11 Ohio App. 3d 159 (Ohio Ct. App., Franklin County 1983).

### **Discharge for Just Cause**

The Court of Appeals for the Ninth Appellate District has explained the concept of discharging an employee for "just cause" in *Durgan v. Ohio Bureau of Empl. Servs.*, 110 Ohio App. 3d 545 (Ohio Ct. App., Lorain County 1996). In that decision the following language appears:

"R.C. 4141.29(D)(2)(a) prohibits the payment of unemployment compensation if the employee "has been discharged for just cause in connection with his work." "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." (Emphasis added.) *Tzangas, Plakas & Mannos v. Ohio Bur. of Emp. Serv.* (1995), 73 Ohio St. 3d 694, 697, 653 N.E.2d 1207, quoting *Irvine v. State, Unemployment Comp. Bd. of Rev.* (1985), 19 Ohio St. 3d 15, 17, 482 N.E.2d 587"

*Durgan v. Ohio Bureau of Empl. Servs.*, 110 Ohio App. 3d 545, 549 (Ohio Ct. App., Lorain County 1996). The Ninth Appellate District recently quoted the language above with approval in *Lucas v. Rt 80 Express, Inc.*, 2012 Ohio 1259 (Ohio Ct. App., Lorain County Mar. 26, 2012).

### **Analysis**

In this case Ms. Loparti challenges the determination that she was discharged for just cause. The reason given by her employer for discharging her was that she put false information on the medical chart of a dog that had surgery. The information that she put on the chart was that she had noticed the dog "twitching" and had notified a vet who was on duty that the dog was twitching. Twitching can be an indication that the dog was suffering seizures.

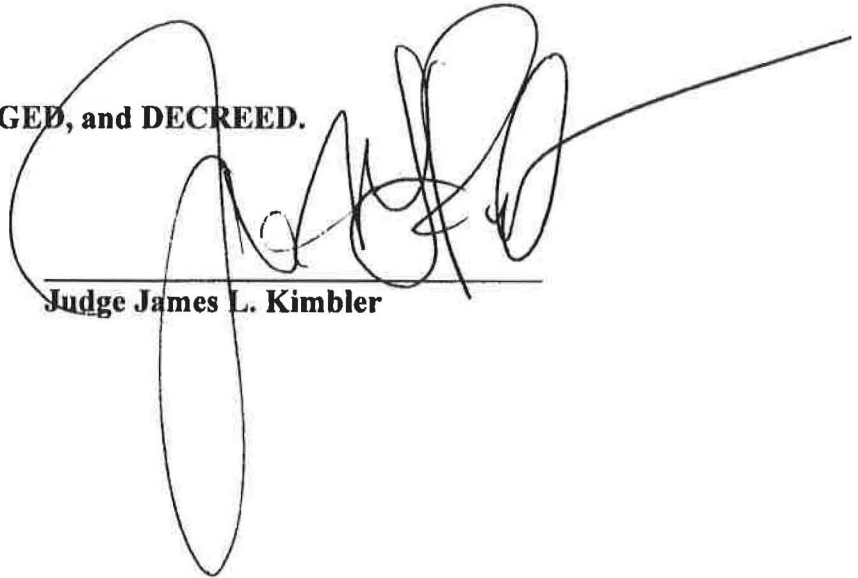
The vet testified that she had not been notified and that when she first saw the chart following her treatment of the dog for seizures the notation was not on the chart. Later, when she saw the chart again, that notation had been added.

The issue before this Court is whether discharging Ms. Loparti from employment was justified. In making this decision, this Court cannot substitute its judgment for that of the Commission and it must defer to the hearing officer's assessment of the evidence. Given those restrictions, this Court cannot find that the decision of the Commission was "unlawful,

unreasonable, or against the manifest weight of the evidence". Therefore, the decision of the Commission is affirmed.

Plaintiff Angela M. Leporati shall pay the court costs of this action, for which judgment is rendered and execution may issue.

**SO ORDERED, ADJUDGED, and DECREED.**

A handwritten signature in black ink, appearing to read 'J. Kimbler', is written over a horizontal line. The signature is highly stylized and cursive. A long, thin line extends from the right side of the signature across the page.

**Judge James L. Kimbler**

## Instructions to the Clerk

The clerk is instructed to send notice of the foregoing entry to the following parties or their counsel of record:

John C. Oberholtzer  
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Notice was sent by ordinary U.S. mail on Nov. 20, 2012.

  
DEPUTY CLERK OF COURT