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PREBLE COUNTY, OHIO

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CHRISTOPHER B. WASHINGTON  
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IN THE COMMON PLEAS COURT, PREBLE COUNTY, OHIO

ROBIN MCKINNEY,

APPELLANT,

CASE NO. 12-CV-29274

V.

DIRECTOR OF DEPT OF JOB  
& FAMILY SERVICES,  
ET AL,

APPELLEES,

DECISION AND ENTRY

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The within matter came on for consideration of Appellant, Robin McKinney's appeal of the decision of the State of Ohio Unemployment Compensation Review commission denying her request for unemployment compensation benefits. The Court has considered the briefs offered by the parties as well as the administrative record.

The parties agree on the law that applies and they agree on the facts.

The only issue is whether Appellant quit work without just cause.

Appellant worked for Cheeseman, LLC (trucking company) for 33 years. When she quit, she was driving 60 miles each way to get to work. For several years, she carpooled with a co-worker. They were working a 6:30 a.m. to 4:30 p.m. shift. The employer changed Appellant's shift to 11:00 a.m. to 9:00 p.m. The result was that Appellant would not be able to continue to carpool with her co-worker.

Appellant was 52 years old at the time she quit. She indicated that she did not feel safe driving the one hour and 15 minutes necessary to commute to work. She did not want the extra expense and she felt like she would never see her husband again.

Appellant indicated that there were times in the winter when it would take them two and one-half hours to get to work and that she did not feel safe doing that.

Appellant was never guaranteed a particular shift for the duration of her employment. Appellant talked to the owner of the business but the decision to move her shift was not modified. The company had a legitimate business purpose for changing the shift.

The parties agree that there is no slide rule definition of what is just cause. They agree that 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. Unemployment Comp. Board of Rev., 19 Ohio St. 3d 15 (1985).

The Court may reverse the Commissioner's decision only if it is unlawful, unreasonable, or against the manifest weight of the evidence. Tzangas, Plakas & Mannos v. Ohio Bur. Of Emp. Serv. 73 Ohio St 3d 694 (1995). The Court is not permitted to make factual findings or determine the credibility of witnesses. The Court must decide whether the commissioner's decision is supported by the evidence in the record.

Again, the issue in this case is whether Appellant quit work without just cause or more precisely, whether the decision that Appellant quit without just cause is supported by the evidence. When determining whether an employee quits work without just cause, courts must analyze the particular circumstances of the case in conjunction with the legislative purpose of the Unemployment compensation Act. That purpose is to enable unfortunate employees, who become and remain involuntarily unemployed by adverse business and industrial conditions, to subsist on a reasonably decent level. Leach v Republic Steel Corp. 176 Ohio St 221 (1964).

When the Court considers all of the above, the Court concludes that the decision below (i.e. that Appellant quit without just cause) is against the manifest weight of the evidence and that the decision is unreasonable.

Appellant was a 33 year employee who at the age of 52 had endured several years of commuting to her work site, over 60 miles from her home, with the assistance of a co-worker who presumably shared the cost of the trip as well as sharing in the actual driving. The decision to quit when advised that her shift would soon change and knowing that as a result she would lose the ability to carpool even though there were others with less seniority who lived closer to the work site, was a decision made with just cause. To an ordinarily intelligent person the circumstances of this case present a justifiable reason for quitting.

The Commission's decision is accordingly reversed as being unreasonable and/or against the manifest weight of the evidence.

Costs to Defendant Unemployment Compensation Review Commission.

  
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JUDGE

CC: LUCAS WILDER/ROBIN A. JARVIS/DEPT OF JOB & FAMILY SERVICES  
CHEESEMAN LLC