



76885277

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

CYNTHIA HRONIS
Plaintiff

Case No: CV-11-772473

Judge: CAROLYN B FRIEDLAND

DIRECTOR OF OHIO DEPARTMENT OF JOB FAMILY
Defendant

JOURNAL ENTRY

96 DISP.OTHER - FINAL

I. FACTS

APPELLANT, CYNTHIA HRONIS, WAS EMPLOYED BY VITAL RESOURCES, INC., (VRI), AN INFORMATION TECHNOLOGY CONSULTING FIRM AS AN IT CONSULTANT UNTIL SHE WAS DISCHARGED FOR INSUBORDINATION. VRI HAS A CODE OF CONDUCT WHICH CONTAINS DISCIPLINARY POLICIES. THE CODE OF CONDUCT STATES THAT ALL EMPLOYEES MUST MAINTAIN A PROFESSIONAL IMAGE AND COMPOSURE AT ALL TIMES. IT ALSO STATES THAT VRI MAY IMMEDIATELY DISCHARGE EMPLOYEES FOR NEGLIGENCE IN RESPECTING AND ADHERING TO THE CODE'S TENETS. HRONIS EXECUTED AN ACKNOWLEDGEMENT OF THIS CODE OF CONDUCT.

AT THE TIME OF HER DISCHARGE HRONIS WAS EMPLOYED BY VRI BUT WORKING ON A PROJECT FOR HEWLETT PACKARD, INC. (HPI). VRI IS A SUBCONTRACTOR FOR THE DEFENSE FINANCE AND ACCOUNTING SERVICE (DFAS) OF THE UNITED STATES DEPARTMENT OF DEFENSE IN CLEVELAND. HPI IS A SUBCONTRACTOR FOR DFAS AND HAD SUBCONTRACTED WITH EMPLOYEES OF VRI TO WORK WITH HPI EMPLOYEES AT THE DFAS FACILITY IN CLEVELAND.

HRONIS ATTENDED AN IT STAFF MEETING AT DFAS THAT WAS LED BY KARL RINGENBACH AND HENRY CHROMIK, DFAS FEDERAL EMPLOYEES WHO SERVED AS SENIOR MANAGERS. VRI MAINTAINS, AND THE UNEMPLOYMENT COMPENSATION REVIEW COMMISSION (UCRC) FOUND, THAT HRONIS BECAME AGITATED DURING THE STAFF MEETING AND ENGAGED IN AN UNPROFESSIONAL AND INSUBORDINATE VERBAL ALTERCATION WITH RINGENBACH IN THE PRESENCE OF TWENTY OTHER DFAS EMPLOYEES AND CHROMIK, IN VIOLATION OF VRI'S CODE OF CONDUCT. VRI MAINTAINS, AND THE UCRC FOUND, THAT AFTER THE STAFF MEETING HRONIS ENGAGED IN A SECOND UNPROFESSIONAL AND INSUBORDINATE VERBAL ALTERCATION WITH RINGENBACH IN THE PRESENCE OF CHROMIK IN A CONFERENCE ROOM. LATER THAT DAY HRONIS WAS DISCHARGED BY VRI DUE TO THE TWO VERBAL ALTERCATIONS WITH RINGENBACH AT DFAS IN VIOLATION OF VRI DISCIPLINARY POLICY.

HRONIS FILED A CLAIM FOR UNEMPLOYMENT BENEFITS WITH APPELLEE, DIRECTOR OF THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES (ODJFS). ODJFS ISSUED AN INITIAL DETERMINATION OF BENEFITS THAT GRANTED HRONIS' CLAIM WITHOUT ANY HEARING PURSUANT TO REVISED CODE SECTIONS 4141.281 AND 4141.29. VRI THEN FILED A NOTICE OF APPEAL OF THE DETERMINATION OF BENEFITS.

ODJFS ISSUED A REDETERMINATION OF BENEFITS THAT AFFIRMED THE INITIAL DETERMINATION OF BENEFITS WITHOUT ANY HEARING UNDER REVISED CODE SECTIONS 4141.281 AND 4141.29(D)(2)(A). VRI THEN FILED A NOTICE OF APPEAL OF THE REDETERMINATION OF BENEFITS. ODJFS TRANSFERRED JURISDICTION OF THE CLAIM ON APPEAL TO THE UCRC PURSUANT TO REVISED CODE SECTION 4141.281.

- 96
11/30/2012

RECEIVED FOR FILING
12/04/2012 13:45:16
By: CLDAW
GERALD E. FUERST, CLERK



76885277

A UCRC HEARING OFFICER HELD AN EVIDENTIARY HEARING PURSUANT TO REVISED CODE SECTION 4141.281. THE UCRC HEARING OFFICER ISSUED A DECISION THAT REVERSED THE REDETERMINATION OF BENEFITS, AND DENIED THE CLAIM UPON THE BASIS THAT HRONIS WAS DISCHARGED FROM HER EMPLOYMENT FOR JUST CAUSE PURSUANT TO R.C. 4141.29(D)(2)(A).

THE UCRC HEARING OFFICER FOUND THE FOLLOWING FACTS: (1) HRONIS WAS PLACED ON ASSIGNMENT AT HEWLETT PACKARD PERFORMING FEDERAL GOVERNMENT CONTRACT WORK; (2) VRI HAS A CODE OF CONDUCT FOR ALL EMPLOYEES WHICH REQUIRES THEY REMAIN PROFESSIONAL AT ALL TIMES; AND (3) FAILURE TO FOLLOW THE CODE OF CONDUCT CAN PLACE VRI'S CONSULTING CONTRACT AT RISK AND WILL RESULT IN IMMEDIATE DISCHARGE FOR EMPLOYEES. THE HEARING OFFICER ALSO FOUND THAT: (1) HRONIS WAS IN A STAFF MEETING AT HEWLETT PACKARD; (2) DURING THE MEETING SHE BECAME UPSET WITH HER SUPERVISOR AND YELLED AT HIM; (3) FOLLOWING THE MEETING, HRONIS APPROACHED THE SAME SUPERVISOR AND HIS BOSS; AND (4) HRONIS BEGAN SHOUTING AND USING ABUSIVE LANGUAGE TOWARD BOTH SUPERVISORS.

THE UCRC HEARING OFFICER REASONED THAT AS A CONSULTANT, HRONIS' ACTIONS IN THE WORKPLACE DIRECTLY IMPACTED VRI AND ITS FUTURE ABILITY TO PLACE EMPLOYEES AT THE WORKSITE. THE HEARING OFFICER STATED THAT HRONIS WAS DIRECTLY RUDE, INSUBORDINATE, AND UNPROFESSIONAL TO BOTH HER SUPERVISORS DURING THE COURSE OF A WORK DAY, AND THAT THE CLIENT IMMEDIATELY REQUESTED THAT HRONIS BE REMOVED FROM THE ASSIGNMENT. THE HEARING OFFICER STATED THAT SHE WAS REASONABLY DISCHARGED BECAUSE VRI COULD NOT BE EXPECTED TO CONTINUE EMPLOYING SOMEONE WHO ENGAGED IN MISCONDUCT SUFFICIENT TO JUSTIFY DISCHARGE. THE HEARING OFFICER CONCLUDED THAT HRONIS WAS DISCHARGED FOR JUST CAUSE IN CONNECTION WITH HER WORK.

HRONIS FILED A REQUEST FOR REVIEW OF THE ADVERSE DECISION OF THE UCRC HEARING OFFICER UNDER R.C. 4141.281. TWO WEEKS LATER, THE FULL UCRC ISSUED A FINAL DECISION THAT DISALLOWED HRONIS' REQUEST FOR REVIEW. THIS CASE STEMS FROM HRONIS' APPEAL OF THAT DISALLOWANCE.

II. STANDARD OF REVIEW

REVISED CODE SECTION 4141.282(H) SETS FORTH THE STANDARD OF REVIEW FOR COURTS IN UNEMPLOYMENT APPEALS OF UCRC DECISIONS. IT STATES THAT:

THE COURT SHALL HEAR THE APPEAL UPON THE CERTIFIED RECORD PROVIDED BY THE COMMISSION. IF THE COURT FINDS THAT THE DECISION OF THE COMMISSION WAS UNLAWFUL, UNREASONABLE, OR AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE, IT SHALL REVERSE, VACATE, OR MODIFY THE DECISION, OR REMAND THE MATTER TO THE COMMISSION. OTHERWISE, THE COURT SHALL AFFIRM THE DECISION OF THE COMMISSION.

THE SUPREME COURT HAS HELD THAT "WHILE APPELLATE COURTS ARE NOT PERMITTED TO MAKE FACTUAL FINDINGS OR TO DETERMINE THE CREDIBILITY OF WITNESSES, THEY DO HAVE A DUTY TO DETERMINE WHETHER THE BOARD'S DECISION IS SUPPORTED BY THE EVIDENCE IN THE RECORD." TZANGAS, PLAKAS & MANNOS V. OBES (1995), 73 OHIO ST.3D 694, CITING IRVINE V. UNEMP. COMP. BD. OF REVIEW (1985), 19 OHIO ST.3D 15, 17-18. THE COMMON PLEAS COURTS IN UNEMPLOYMENT BENEFIT CASES MUST DEFER TO THE UCRC WITH RESPECT TO PURELY FACTUAL ISSUES THAT CONCERN THE CREDIBILITY OF WITNESSES AND THE WEIGHT OF CONFLICTING EVIDENCE. ID. ALTHOUGH REASONABLE MINDS MIGHT REACH DIFFERENT CONCLUSIONS ON THE BASIS OF THE EVIDENCE PRESENTED, IT DOES NOT MEAN THAT THE DECISION OF THE UCRC MAY BE REVERSED. TZANGAS, 73 OHIO ST.3D 694; BANKS V. ODJFS, 8TH DIST. NO. 95780, 2011 OHIO 3063; MASSENGALE-HASAN V. ODJFS, 8TH DIST. NO. 92951, 2010 OHIO 251; WESTPHAL V. ODJFS, 9TH DIST. NO. 09CA9602, 2010 OHIO 190; MOORE V. ODJFS, 9TH DIST. NO. CA23255, 2006 OHIO 6382.



76885277

III. ANALYSIS

THE UCRC IS THE FINDER OF FACT, AND THIS COURT MAY ONLY REVERSE, VACATE, OR MODIFY THE DECISION IF IT FINDS THAT IT WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE IN THE CERTIFIED RECORD, WAS UNLAWFUL, OR WAS UNREASONABLE. THIS COURT MAY NOT MAKE FACTUAL FINDINGS OR JUDGMENTS ON THE CREDIBILITY OF WITNESSES. THIS COURT MAY NOT CONSIDER ANY EVIDENCE OUTSIDE OF WHAT IS CONTAINED IN THE CERTIFIED RECORD. THE ISSUE BEFORE THE COURT IS WHETHER THE UCRC'S DECISION THAT VRI TERMINATED HRONIS FOR JUST CAUSE WAS SUPPORTED BY ITS FACTUAL FINDINGS, AND WHETHER ITS DECISION WAS LAWFUL AND REASONABLE.

THE UCRC WEIGHED THE CREDIBILITY OF WITNESSES AND THE WEIGHT OF THE EVIDENCE AT ITS HEARINGS, AND DETERMINED THAT HRONIS ENGAGED IN BEHAVIOR THAT JUSTIFIED HER TERMINATION BY VRI. HRONIS ARGUES THAT THE UCRC WAS WRONG TO DO SO BECAUSE (1) SHE DID NOT ENGAGE IN INSUBORDINATION; (2) THE UCRC LISTENED TO HEARSAY TESTIMONY FROM CHARLENE CONNELL, PRESIDENT OF VRI, WHO WAS NOT PRESENT AT THE INCIDENT WHICH LED TO HRONIS' TERMINATION; (3) THE UCRC LISTENED TO PERJURED TESTIMONY FROM CONNELL; AND (4) THE UCRC FOUND THAT HRONIS' BEHAVIOR IMPACTED VRI'S ABILITY TO PLACE EMPLOYEES AT THE WORKSITE IN THE FUTURE EVEN THOUGH HRONIS INDICATED THAT AFTER HER TERMINATION VRI WAS ADVERTISING FOR SOMEONE TO REPLACE HER. HRONIS ARGUES THAT THE UCRC WAS WRONG TO DENY HER REQUEST FOR REVIEW BECAUSE SHE PROVIDED EVIDENCE THAT VRI WAS STILL ABLE TO PLACE EMPLOYEES AT THE WORKSITE.

HRONIS CLAIMS THAT SHE DID NOT ENGAGE IN INSUBORDINATION. HOWEVER, THE UCRC FOUND THAT VRI HAD A CODE OF CONDUCT FOR ALL EMPLOYEES THAT REQUIRES THAT THEY REMAIN PROFESSIONAL AT ALL TIMES. THE UCRC FOUND THAT FAILURE TO FOLLOW THE CODE CAN PLACE VRI'S CONSULTING CONTRACT AT RISK AND RESULTS IN IMMEDIATE DISCHARGE FOR EMPLOYEES. THE UCRC FOUND THAT HRONIS BECAME AGITATED DURING THE STAFF MEETING AT HP AND ENGAGED IN AN UNPROFESSIONAL AND INSUBORDINATE VERBAL ALTERCATION WITH DFAS MANAGER RINGENBACH, IN VIOLATION OF VRI'S CODE OF CONDUCT. THE UCRC BASED THESE FINDINGS UPON THE VITAL RESOURCES CODE OF CONDUCT AND THE ACKNOWLEDGMENT SIGNED BY HRONIS, AS WELL AS UPON TESTIMONY OF PRESIDENT CONNELL OF VRI, THE TESTIMONY OF HRONIS, AND AN EMAIL FROM HP IT MANAGER JACKIE ROBISON TO CONNELL STATING THAT DFAS HAD REQUESTED HP TO IMMEDIATELY TERMINATE THE SERVICES OF HRONIS DUE TO INSUBORDINATION WITH DFAS. THE UCRC'S DETERMINATION THAT HRONIS ENGAGED IN INSUBORDINATION IN VIOLATION OF THE VRI CODE OF CONDUCT IS NOT AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE IN THE RECORD, IT IS NOT UNREASONABLE, AND IT IS NOT UNLAWFUL. THEREFORE HRONIS' FIRST ARGUMENT FAILS.

HRONIS NEXT ARGUES THAT THE UCRC LISTENED TO HEARSAY TESTIMONY FROM CHARLENE CONNELL, PRESIDENT OF VRI, AND THAT THIS HEARSAY TESTIMONY SHOULD NOT BE WEIGHED MORE HEAVILY THAN HER OWN TESTIMONY. HOWEVER, AS ODJFS ARGUES IN ITS BRIEF, REVISED CODE SECTION 4141.281(C)(2) STATES IN PART THAT, "[H]EARING OFFICERS ARE NOT BOUND BY COMMON LAW OR STATUTORY RULES OF EVIDENCE OR BY TECHNICAL OR FORMAL RULES OF PROCEDURE. NO PERSON SHALL IMPOSE UPON THE CLAIMANT OR THE EMPLOYER ANY BURDEN OF PROOF AS IS REQUIRED IN A COURT OF LAW." ODJFS CITES SIMON V. LAKE GEAUGA (1982), 69 OHIO ST.2D 41 AT 44, WHERE THE OHIO SUPREME COURT HELD THAT, "EVIDENCE WHICH MIGHT CONSTITUTE INADMISSIBLE HEARSAY WHERE STRINGENT RULES OF EVIDENCE ARE FOLLOWED MUST BE TAKEN INTO ACCOUNT IN PROCEEDINGS SUCH AS THIS WHERE RELAXED RULES OF EVIDENCE ARE APPLIED." ODJFS ALSO CITES BARKSDALE V. ODJFS, 8TH DIST. NO. 93711, 2010 OHIO 267 AT PARA.4, WHERE THE EIGHTH DISTRICT HELD THAT THE UCRC IS FREE TO FIND THE EVIDENCE IN THE RECORD SUBMITTED ON BEHALF OF THE EMPLOYER MORE CREDIBLE THAN THE SWORN TESTIMONY OF THE CLAIMANT, AND THEREFORE "IT WAS IN THE PROVINCE OF THE HEARING OFFICER TO PLACE GREATER WEIGHT ON THE DOCUMENTARY EVIDENCE SUBMITTED BY [THE EMPLOYER] THAN ON [THE CLAIMANT'S] TESTIMONY." THE UCRC WAS ENTITLED TO HEAR THE TESTIMONY OF PRESIDENT CONNELL AND TO WEIGH IT AND ANY DOCUMENTATION MORE HEAVILY THAN HRONIS' TESTIMONY. THEREFORE HRONIS' SECOND ARGUMENT FAILS.



76885277

HRONIS' THIRD ARGUMENT IS THAT THE UCRC RELIED UPON TESTIMONY IN WHICH CONNELL PERJURED HERSELF IN MAKING THEIR DECISION. HOWEVER, HRONIS DOES NOT SUPPORT THIS ARGUMENT WITH SUFFICIENT EVIDENCE. THE UCRC WAS ENTITLED TO BELIEVE OR DISBELIEVE TESTIMONY WHERE HRONIS DID NOT SUPPLY SUFFICIENT EVIDENCE TO SHOW THAT CONNELL PERJURED HERSELF. THEREFORE HRONIS' THIRD ARGUMENT FAILS.

HRONIS' FOURTH ARGUMENT IS THAT THE UCRC ERRONEOUSLY FOUND THAT HRONIS' BEHAVIOR IMPACTED VRI'S ABILITY TO PLACE EMPLOYEES AT THE WORKSITE IN THE FUTURE EVEN THOUGH HRONIS INDICATED THAT AFTER HER TERMINATION VRI WAS ADVERTISING FOR SOMEONE TO REPLACE HER. HRONIS ARGUES THAT THE UCRC WAS WRONG TO DENY HER REQUEST FOR REVIEW BECAUSE SHE PROVIDED EVIDENCE THAT VRI WAS STILL ABLE TO PLACE EMPLOYEES AT THE WORKSITE. HOWEVER, THE UCRC DID NOT FIND THAT HRONIS' BEHAVIOR PREVENTED VRI FROM PLACING EMPLOYEES AT THE HP WORKSITE, ONLY THAT IT IMPACTED THAT ABILITY. THE UCRC ALSO FOUND THAT HRONIS WAS RUDE, INSUBORDINATE, AND UNPROFESSIONAL TO HER SUPERVISORS, AND THAT THE DFAS CLIENT IMMEDIATELY REQUESTED THAT HRONIS BE REMOVED FROM THE ASSIGNMENT. THE UCRC CONCLUDED THAT VRI COULD NOT BE EXPECTED TO CONTINUE TO EMPLOY SOMEONE WHO BEHAVES IN AN UNPROFESSIONAL MANNER, AND THEREFORE VRI REASONABLY DISCHARGED HRONIS. THE UCRC DISALLOWED HRONIS' REQUEST FOR A REVIEW AFTER REVIEWING THE DECISION AND THE RECORD. THE UCRC BASED ITS DECISION NOT ONLY UPON VRI'S ABILITY TO PLACE EMPLOYEES AT THE HP WORKSITE AFTER HRONIS' CONDUCT, BUT UPON HRONIS' CONDUCT AND DFAS' REQUEST THAT SHE BE REMOVED FROM THE PROJECT. THE UCRC WAS JUSTIFIED IN DISALLOWING HRONIS' REQUEST FOR REVIEW. THEREFORE, HRONIS' FOURTH ARGUMENT FAILS. HRONIS' ARGUMENT THAT THE UCRC ERRED WHEN IT DISALLOWED HER REQUEST FOR REVIEW ALSO FAILS.

IV. CONCLUSION

THE COURT AFFIRMS THE FINAL DECISION OF THE UNEMPLOYMENT COMPENSATION REVIEW COMMISSION THAT VITAL RESOURCES, INC. TERMINATED APPELLANT CYNTHIA HRONIS FOR JUST CAUSE PURSUANT TO REVISED CODE SECTION 4141.29(D)(2)(A), AS IT WAS SUPPORTED BY THE EVIDENCE IN THE CERTIFIED RECORD, IT WAS REASONABLE, AND IT WAS LAWFUL. FINAL.

COURT COST ASSESSED TO THE PLAINTIFF(S).

Judge Signature

12/04/2012