

IN THE COURT OF COMMON PLEAS
STARK COUNTY, OHIO

MICHAEL P. WILLIAMS,

Appellee

vs.

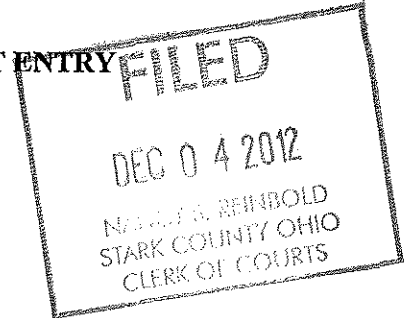
CASMEL, INC., ET AL.,

Appellant.

CASE NO. 2012 CV 2375

JUDGE FRANK G. FORCHIONE

JUDGMENT ENTRY



This appeal arises as a result of the May 18, 2012 Administrative Decision by the State of Ohio, unemployment Compensation Review Commission in which the Commission reversed the Director's Redetermination of April 12, 2012 and found that Appellee, Michael Williams' benefits were no longer suspended.

On February 6, 2012, Appellee Director of the Ohio Department of Jobs and Family Services issued an initial determination that Appellee Williams (hereinafter Williams) was totally unemployed due to lack of work and awarded Williams unemployment benefits. Then on March 20, 2012, Appellee Director issued a new determination, finding that Williams refused an offer of work on March 5, 2012, but that there was no change in condition that caused the previous separation and allowed Williams' benefits to continue. That decision was vacated on March 21, 2012.

On the same day, March 21, 2012, a new determination was issued that disallowed Williams' unemployment benefits, finding that he had refused an offer of work and that conditions had changed from when Williams had initially been granted benefits. Williams appealed this decision.

In a redetermination decision issued on April 12, 2012, Appellee Director affirmed the March 21st decision, finding that Williams had not met the requirements of R.C. 4141.29(D),

thereby disallowing his continued benefits. Williams again filed a timely appeal of this redetermination decision and the case was transferred to the Review Commission pursuant to R.C. 4141.281(B).

A telephonic hearing was held by a Review Commission Hearing Officer on May 4, 2012. In a decision mailed out on May 18, 2012, the Hearing Officer reversed the Appellee Director's redetermination decision. The Hearing Officer held that Appellant Employer had failed to establish that Williams had returned to work on March 5, 2012, but that Williams had returned to work on February 16, 2012 and was separated at a later date. The only issue therefore considered by the Hearing Officer was whether Williams had refused an offer of suitable work on March 5, 2012; it was determined that he had not and that therefore he was eligible for continued unemployment compensation benefits.

The Appellant-Employer requested a further review of this decision, which was disallowed on June 27, 2012. Thereafter, Appellant-Employer appealed to this Court, seeking a reversal of the grant of continued unemployment compensation benefits.

The standard of review when considering appeals of decisions made by the Review Commission of the Ohio Department of Job and Family Services is found in R.C. 4141.282(H) which states:

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 remand the matter to the commission. Otherwise, the court shall affirm the decision of the commission.

R.C. Chapter 4141 does not distinguish between the scope of review of a common pleas court and that of an appellate court with respect to review commission decisions. See R.C. 4141.282(H)-(I). Additionally, the Supreme Court of Ohio has confirmed that "the board's role as fact-finder is intact; a reviewing court may reverse the board's determination only if it is unlawful, unreasonable, or against the manifest weight of the evidence." *Tzangas v. Administrator, Ohio Bur. of Emp. Servs.* (1995), 73 Ohio St.3d 694, 697, 653 N.E.2d 1207.

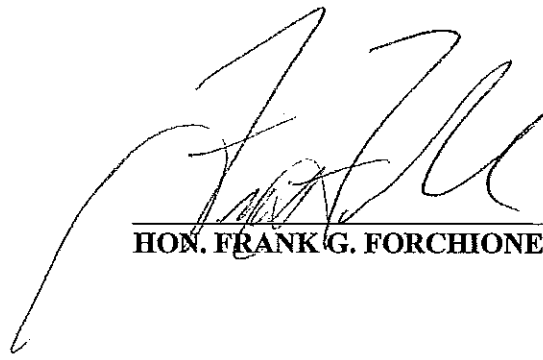
The Ohio Supreme Court, in *Irvine v. State of Ohio Unemployment Compensation Board of Review* (1985), 19 Ohio St.3d 15, 482 N.E.2d 587, stated that the duty or authority of the courts is to determine whether the decision of the board is supported by the evidence in the record. The fact that reasonable minds might reach different conclusions is not a basis for the reversal of the board's decision. *Id.* at 18, quoting *Craig v. Bur. of Unemp. Comp.* (1948), 83 Ohio App. 247, 260, 83 N.E.2d 628. Furthermore, where the board might reasonably decide either way, the courts have no authority to upset the board's decision. *Charles Livingston & Sons, Inc. v. Constance* (1961), 115 Ohio App. 437, 438, 185 N.E.2d 655. The courts' role is to determine whether the decision of the review commission is supported by evidence in the certified record. *Durgan*, 110 Ohio App.3d at 551, 674 N.E.2d 1208, citing *Tzangas*, 73 Ohio St.3d at 696, 653 N.E.2d 1207. If the court finds that such support is found, then the court cannot substitute its judgment for that of the review commission. *Durgan*, *supra* at 551, citing *Wilson v. Unemp. Comp. Bd. of Rev.* (1984), 14 Ohio App.3d 309, 310, 471 N.E.2d 168.

The Review Commission Hearing Officer found that Appellee Williams had not refused an offer of suitable work and was therefore eligible for continued unemployment compensation benefits.

The Court finds that the Review Commission Hearing Officer is in the best position to assess the evidence and credibility of the parties and that there is evidence in the record to support the Review Commission's finding. This Court, therefore, has no authority to reverse the Review Commission's decision.

Accordingly, the Court finds that the decision of the Review Commission was not unlawful, unreasonable, or against the manifest weight of the evidence and hereby affirms the same and upholds the finding that Appellee Williams was eligible for continued unemployment compensation benefits ordered by the Hearing Officer.

IT IS SO ORDERED.



HON. FRANK G. FORCHIONE

c: Jason Bing, Esq
Susan Sheffield, Esq
Michael Williams, pro se