

IN THE COMMON PLEAS COURT OF ERIE COUNTY, OHIO

Leslie A. McLaughlin,	:	Case No. 2011-CV-764
Plaintiff, Appellee	:	
And	:	Judge Tygh M. Tone
Director, Ohio Department of Job And Family Services,	:	<b>JUDGMENT ENTRY</b>
Plaintiff, Appellee	:	
VS.	:	
Kyklos Bearing International, Inc.	:	
Defendant, Appellant	:	

FILED COURT  
COMMON PLEAS, OHIO  
ERIE COUNTY, OHIO  
2012 DEC - 6 AM 11:29  
LUVADA S. WILSON  
CLERK OF COURTS

\*\*\*\*\*

This matter is before the Court on Appellant’s administrative appeal from the Ohio Unemployment Compensation Review Commission’s September 29, 2011 decision, denying Appellant’s Request for Review of the Unemployment Compensation Review Commission’s Decision granting unemployment benefits to Appellee. This Court **AFFIRMS** the Decision of the Ohio Unemployment Compensation Review Commission.

STATEMENT OF THE CASE

Appellee Leslie A. McLaughlin’s [hereinafter Appellee McLaughlin] claim for benefits was denied initially and on redetermination. Appellee McLaughlin appealed. The Hearing Officer for the Review Commissioner reversed the redetermination and ruled that Appellee McLaughlin was terminated without just cause.

Appellant Kyklos Bearing International, Inc.’s [hereinafter KBI] request for a final administrative review was denied. KBI filed this administrative appeal.

## STATEMENT OF THE FACTS

Appellee Leslie A. McLaughlin began working for Appellant KBI in 2005.

Appellee McLaughlin was on approved sick leave effective March 29, 2010 through September 3, 2012. She last physically worked on March 28, 2010. KBI used MetLife Company to process employee medical leave. On September 8, 2010 Appellee McLaughlin provided medical documentation from her physician to MetLife stating that she was unable to work through December 12, 2010. Appellant disputes receiving this document.

On September 17, 2010 Appellee McLaughlin was notified that she was considered "voluntary quit" because she failed to work within three working days after the expiration of her leave of absence. In the letter she was told that her seniority would be reinstated within three days if she reported to work or gave proper notification of her absence. On September 22, 2010 Appellee McLaughlin was notified in writing that she was terminated as of that date because her disability leave was denied.

On October 5, 2010 Appellee McLaughlin was notified in writing that she needed to contact the medical department to schedule an appointment to see the company doctor to see if she agreed with Appellee McLaughlin's physician that she needed to be off work. Appellee McLaughlin scheduled an appointment with the company doctor, which was cancelled by the physician's office because office personnel were notified that Appellee McLaughlin's employment was terminated. On October 11, 2010 Appellee McLaughlin was notified in writing that she was considered "voluntary quit" because she did not see the company physician within three working days. As of October 19, 2010 Appellee McLaughlin's employment was severed.

## STANDARD OF REVIEW

The standard of review for the Common Pleas Court when considering appeals of decisions rendered by the Review Commission is set forth in R.C. 4141.282(H):

The court shall hear the appeal on 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 determination of just cause is a factual question and thus “is primarily within the province of the referee and board. Upon appeal, a court of law may reverse such decisions only if they are unlawful, unreasonable, or against the manifest weight of the evidence.” *Irvin v. Unemp. Comp. Bd. Of Rev.*, 19 Ohio St.3d 15, 17-18, 482 N.E.2d 587 (1985). “Thus, a reviewing court may not make factual findings or determine a witness’s credibility and must affirm the commission’s finding if some competent, credible evidence in the record supports it.” *Williams v. Ohio Department of Job and Family Services*, 129 Ohio St.3d 332, 2011-Ohio-2897, 951 N.E.2d 1031, ¶20. As a court of limited power, this court cannot reverse the Review Commission’s decision simply because reasonable minds might reach different conclusions. *Irvin* at 18.

## ARGUMENTS

### *Appellant’s Argument*

Appellant argued that the hearing officer’s determination that Appellee McLaughlin scheduled an appointment with the company doctor but the appointment was cancelled by the doctor’s office is incorrect as Appellee McLaughlin did not schedule her appointment with KBI until after she was terminated. Also, Appellee McLaughlin did not provide written documentation of her medical leave until November 11, 2010, which was

after she was terminated from KBI. Also, although Appellee McLaughlin claims she called Mr. Smith after receiving the October 19, 2010 Appellant argues this is impossible as this letter was unclaimed.

*Appellees' Argument*

According to Appellees McLaughlin and Director of Ohio Department of Job and Family Services, KBI argues that Appellee McLaughlin failed to submit her physician's excuse in a timely manner pursuant to the collective bargaining agreement and letters sent to her and thus was terminated with just cause. Appellees argue that Appellants have failed to meet their burden as the employer to show that the misconduct constituted just cause. Appellee McLaughlin saw her physician draw up a medical excuse on September 3, 2010 stating she was unable to work through December 12, 2010. Because of the physician's excuse, Appellee did not return to work. However, due to miscommunications Appellee did not immediately provide KBI with the medical excuse. When Appellee McLaughlin received the September 17, 2010 letter stating that there was no longer substantial medical evidence that she must remain on medical leave she contacted Mr. Smith, the labor relations supervisor. Mr. Smith reassured her that it was okay. Further, KBI told Appellee McLaughlin to make an appointment with KBI's physician and cautioned that if she did not do so KBI would treat her as a "voluntary quit." Although Appellee McLaughlin scheduled the appointment the KBI physician's office canceled three days later claiming Appellee had been terminated.

Appellees argue that although KBI has its own version of the events, the Hearing Officer found that Appellee McLaughlin's version is supported by competent, credible

evidence of Appellee McLaughlin's communications with KBI and efforts to provide medical documentation supporting her continued need for medical leave.

### ANALYSIS

4141.29 (D)(2)(a) provides in pertinent part:

- (D) Notwithstanding division (A) of this section, no individual may serve a waiting period or be paid benefits under the following conditions: \* \* \*
- (2) For the duration of the individual's unemployment if the director finds that:
  - (a) The individual quit work without just cause or has been discharged for just cause in connection with the individual's work \* \* \*

"Just Cause" is determined on a case by case basis. The Ohio Supreme Court has stated that "essentially, each case must be considered upon its particular merits.

Traditionally, 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." *Irvin v.*

*Unemployment comp. Bd. Of Review*, 19 Ohio St.3d 15, 482 N.E.2d 587 (1985) quoting *Peyton v. Sun T.V.*, 44 Ohio App.2d 10, 12, 335 N.E.2d 751 (10th Dist. 1975). Also, the legislative purpose underlying the Unemployment Compensation Act must be considered when determining just cause. The Act's purpose is "to provide financial assistance to an individual who had worked, was able and willing to work, but was temporarily without employment through no fault or agreement of his own." *Irvine* at 17, quoting *Salzl v. Gibson Greeting Cards*, 61 Ohio St.2d 35, 39, 399 N.E.2d 76 (1980).

This court, sitting as a reviewing court, may not make factual findings or determine a witness's credibility. The determination of just cause is a factual question for the Hearing Officer. Here, the Hearing Officer found that Appellee McLaughlin had provided medical evidence showing that she was unable to work through December 12, 2010. Appellee McLaughlin testified that she personally observed her physician prepare

the excuse and her staff fax the excuse both to MetLife and KBI. Further, the Hearing Officer determined that Appellee McLaughlin “provided credible testimony that this documentation was provided to a third-party administrator, and that she attempted to comply with instructions to see the company doctor; however, her appointment was cancelled by the doctor’s office and would not be rescheduled once notifications went out that claimant’s employment was terminated.” Appellee McLaughlin testified that in response to the October 5, 2010 letter, she scheduled an appointment with the company physician but was canceled by the office three days later. The Hearing Officer determined that “perhaps claimant should have taken more steps to communicate with employer representatives; however, the Hearing Officer finds that there is insufficient evidence in the record to justify claimant’s discharge.” Based upon the foregoing, competent, credible evidence in the record supports the reasoning by the Hearing Officer that KIB discharged Appellee McLaughlin without just cause in connection with work. Although reasonable minds may reach different conclusions, the Hearing Officer’s determination was not unlawful, unreasonable, or against the manifest weight of the evidence. Thus, this court cannot reverse the Review Commission’s decision.

#### CONCLUSION

The decision of the Unemployment Compensation Review Commission was not unlawful, unreasonable, or against the manifest weight of the evidence. The Hearing Officer’s determination that KIB discharged Appellee McLaughlin without just cause is based upon competent, credible evidence.

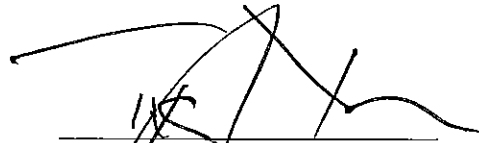
JUDGMENT ENTRY

**IT IS ORDERED** that Leslie A. McLaughlin, Appellee, is entitled to and eligible to receive unemployment compensation benefits.

**IT IS ORDERED** that the decision of the Unemployment Compensation Review Commission is **AFFIRMED**.

It is further **ORDERED** that there is no just reason for delay pursuant to Civil Rule 54(B).

12/5/12  
Date

  
Judge Tygh M. Tone