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



ARLENE MCNAMARA
Plaintiff

Case No: CV-10-737255

Judge: JOAN SYNENBERG

JENNINGS HALL, INC., ET AL
Defendant

JOURNAL ENTRY

96 DISP.OTHER - FINAL

THIS CAUSE CAME ON FOR CONSIDERATION UPON BRIEF OF CLAIMANT-APPELLANT ARLENE MCNAMARA ("CLAIMANT" OR "MCNAMARA") AND BRIEF OF APPELLEE DIRECTOR, OHIO DEPARTMENT OF JOB AND FAMILY SERVICES. AFTER REVIEWING THE DECISION OF THE REVIEW COMMISSION, THE DECISION OF THE HEARING OFFICER THAT CLAIMANT QUIT HER EMPLOYMENT WITHOUT JUST CAUSE, THE RECORD BEFORE THIS COURT, AND THE BRIEFS OF THE PARTIES, THIS COURT FINDS THAT THE REVIEW COMMISSION'S DECISION WAS NOT UNLAWFUL, UNREASONABLE OR AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE. THE HEARING OFFICER'S DECISION IS AFFIRMED.

...OSJ...

SO ORDERED.
COURT COST ASSESSED TO THE PLAINTIFF(S).

Judge Signature

Date

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

Arlene R. McNAMARA)	Case No. 737255
)	
Appellant)	
)	<u>ORDER AND OPINION</u>
v.)	
)	
JENNINGS HALL, INC., et al.)	
Appellees)	
)	

SYNENBERG, J.:

I. INTRODUCTION

This cause came on for consideration upon Brief of Claimant-Appellant Arlene McNamara (“Claimant” or “McNamara”) and Brief of Appellee Director, Ohio Department of Job and Family Services. After reviewing the decision of the Review Commission, the decision of the Hearing Officer that Claimant quit her employment without just cause, the record before this court, and the briefs of the parties, this Court finds that the Review Commission’s decision was not unlawful, unreasonable or against the manifest weight of the evidence. The Hearing Officer’s decision is affirmed.

II. PROCEDURAL HISTORY

In the instant matter, Claimant filed an application for unemployment compensation benefits on April 14, 2010. Ohio Department of Job and Family Services (“ODJFS”) initially allowed Claimant’s benefits.

On June 2, 2010, ODJFS issued a redetermination decision affirming the initial decision allowing benefits. The employer appealed and jurisdiction was transferred to

the Review Commission. A hearing was held on June 28, 2010 and on July 27, 2010.

Claimant appeared, as did other witnesses and the employer's representative.

On July 29, 2010 the Hearing Officer reversed ODJFS's redetermination decision, holding that Claimant quit work without just cause under R.C. 4141.29(D)(2)(a) and was ineligible for benefits. Ms. McNamara filed a request for further review by the Review Commission. On August 25, 2010 the Review Commission mailed a final decision, denying Ms. McNamara's request for further review. It is from this final decision that Ms. McNamara appeals to this Court seeking reversal.

III. LAW AND ANALYSIS

A. Standard of Review for Appeals to the Common Pleas Court from Decisions of the Unemployment Compensation Commission

On appeal to the court of common pleas, the standard of review in unemployment compensation benefits case is stated in R.C. 4141.282(H) which provides:

The court shall hear the appeal upon receipt of 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 reviewing court's authority to review the Review Commission's decision is strictly limited. The reviewing court must defer to the Hearing Officer and the Review Commission regarding factual determinations. Brown-Brockmeyer Co. v. Roach, 148 Ohio St. 511 (1947); Irvine v. Unemploy. Comp. Bd. of Review, 19 Ohio St.2d 15 (1985). The reviewing court may not substitute its judgment for that of the Review Commission and the Hearing Officer. Simon v. Lake Geauga Printing Co., 69 Ohio St.2d 41 (1982).

A decision, if supported by some competent, credible evidence, shall not be reversed by the reviewing court as being against the manifest weight of the evidence. Angelkovski v. Buckeye Potato Chips Co., 11 Ohio App. 3d 159 (1983). The reviewing court must determine whether the decision is supported by this evidence and not to conduct a trial de novo. Kilgore v. Bd. of Review, 2 Ohio App. 2d 69 (1965).

B. Competent, Credible Evidence in the Record Supports the Review Commission's

Decision

Pursuant to R.C. 4141.29(D)(2)(a) a claimant must satisfy the statutory requirements to qualify for unemployment benefits. R.C. 4141.29(D)(2)(a) provides:

(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 his 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.

In the instant case, Ms. McNamara was employed by Jennings Hall, Inc. from July 21, 2008 through April 9, 2010. In April 2010, an incident was brought to the attention of Ms. Ensinger, Director of Clinical Services at Jennings Hall, Inc. Ms. Ensinger informed Ms. McNamara that she was giving Ms. McNamara a verbal warning and outlined the complaints that Ms. Ensinger had received regarding Ms. McNamara. After reporting for work on April 9, 2010, Ms. McNamara collected her personal belongings, left her name badge, pager keys and laptop in her office and left the employer's premises.

Ms. McNamara's initial application for unemployment benefits was allowed. ODJFS affirmed Ms. McNamara's right to benefits on June 2, 2012. The Employer


appealed, the case was heard by a Hearing Officer on June 28, 2010 and July 27, 2010. The Hearing Officer held that Ms. McNamara was not entitled to unemployment compensation benefits and declared an overpayment of benefits in the amount of \$5,475.00.

This Court, as a reviewing court, must defer to the factual determinations of the Review Commission and the Hearing Officer. Brown-Brockmeyer Co. v. Roach, 148 Ohio St. 511 (1947); Irvine v. Unemploy. Comp. Bd. of Review, 19 Ohio St.2d 15 (1985). Where there is credible evidence to support the Review Commission's conclusion that Ms. McNamara had quit her job without just cause, this Court shall not reverse, vacate, or remand the matter. The Review Commission's determination was not unlawful, unreasonable, or against the manifest weight of the evidence. Therefore, the decision of the Hearing Officer that Ms. McNamara quit work without just cause under R.C. 4141.29(D)(2)(a) and she was ineligible for benefits must be affirmed.

CONCLUSION

After reviewing the decision of the Hearing Officer, finding that Claimant was discharged for just cause in connection with work, this Court finds that the Hearing Officer's decision was not unlawful, unreasonable or against the manifest weight of the evidence. The Hearing Officer's decision is affirmed.

SO ORDERED. NO JUST CAUSE FOR DELAY.


Judge Joan Syhenberg

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