

Standard of Review

Unemployment compensation appeals are error proceedings, not proceedings *de novo*.¹ This Court has the duty to determine whether the Review Commission's decision is supported by law and facts.² A decision supported by some competent, credible evidence will not be reversed as being against the manifest weight of the evidence.³

In determining whether just cause exists, the UCRC "must consider whether granting benefits would serve the underlying purpose of unemployment compensation – that is providing financial assistance to individuals who become unemployed through no fault of their own."⁴ As stated in *Loy v. Unemp. Com. Bd.*, the "just cause" test for discharge is whether the discharge was due to the culpability of the employer rather than due to circumstances beyond the employee's control.⁵

A reviewing court may reverse "just cause" determinations "if they are unlawful, unreasonable, or against the manifest weight of the evidence."⁶ A Review Commission's decision cannot be reversed simply because reasonable minds might reach different conclusions.⁷

Decision Unlawful, Unreasonable, or Against the Manifest Weight of the Evidence

¹ *Hall v. American Brake Shoe Co.* (1968), 13 Ohio St.2d 11, 13-14.

² *Irvine v. Unemp. Comp. Bd. of Review* (1985), 19 Ohio St.3d 15, 17.

³ *Angelkovski v. Buckeye Potato Chips Co.* (1983), 11 Ohio App.3d 159.

⁴ *Hartless v. Director*, ODJFS, 2011-Ohio-1374.

⁵ (1986), 30 Ohio App.3d 1204, 1206.

⁶ *Tzangas, Plakas & Mannos* (1995), 73 Ohio St.3d 694 quoting Irvine, supra.

⁷ *Id.* at 697.

The hearing officer concluded that the Employer's call to the residence was insufficient notice that she needed to return to work. There is no legal requirement that employers provide personal notice of recall to laid off workers. However, no matter what notice Claimant received, she was unable to return to work on March 26, 2012 because she was incarcerated. The Fifth District Court of Appeals has recently determined that if a person is terminated from employment due to absences caused by incarceration, such termination is for "just cause".

When an employee is at fault, he is no longer the victim of fortune's whims, but is instead directly responsible for his own predicament. Fault on the employee's part separates him from the Act's intent and the Act's protection. In the case sub judice, appellant voluntarily engaged in conduct which he knew was in violation of his probation. As a direct result of this voluntary act, appellant was incarcerated. Thus, appellant alone was at fault for his state of unemployment.⁸

Similarly, Claimant was incarcerated as a result of her own conduct and, thus, was prevented from reporting to work. The record is clear that Claimant was solely responsible for her discharge.

Claimant's Medical Condition

In its brief, the Director argues that Claimant was discharged without just cause because she had a doctor's note ordering her not to return to work until April 18, 2012. However, such basis was not mentioned by the hearing officer in her decision. This Court's role is to determine whether or not the hearing officer's decision is reasonable and supported by the law.

⁸ *Scharver v. Dir. Of ODJFS, 2007-Ohio-3633*

Even if this Court were to consider the alleged condition, it was not even discovered by the employer until over a month after Claimant's termination, thus, it could not have formed the basis for her termination.

Upon review of the evidence in the administrative record and the evidence presented at the hearing, the Court finds that the hearing officer's conclusion that Claimant was terminated without just cause is unreasonable and against the manifest weight of the evidence.

Accordingly, it is hereby

ORDERED, ADJUDGED and **DECREED** that the Review Commission's Decision is hereby **REVERSED**. This is a final appealable order and there is no just cause for delay.

IT IS SO ORDERED.



JOHN G. HAAS, JUDGE

To: Atty. Mary E. Reynolds
Atty. Susan M. Sheffield