



IN THE COMMON PLEAS COURT OF CLARK COUNTY, OHIO
CIVIL DIVISION

JOSHUA D WICK

Plaintiff,

v.

**OHIO DEPARTMENT OF JOB AND
FAMILY SERVICES, et al.,**

Defendants.

CASE NO. 10CV0792

JUDGE RICHARD J. O'NEILL

ENTRY & ORDER

INTRODUCTION

This matter is before the Court on appeal of The Ohio Unemployment Compensation Review Commission's ("Review Commission") decision to deny Appellant Joshua Wick unemployment benefits and to order repayment of benefits received.

STANDARD OF REVIEW

The standard of review required of a court in reviewing decisions of the Review Commission is codified in R.C. 4141.282(H). That section states:

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 reviewing court may not reverse the Review Commission's decision merely because the reviewing court might have reached a different conclusion. Rather, the Review Commission's decision is only subject to reversal if it is "unlawful, unreasonable, or against the manifest weight of the evidence." *Tzangas, Plakas & Mannos v. Ohio Bur. of Emp. Serv.*, 1995-Ohio-206, 73 Ohio St. 3d 694, 697, 653 N.E.2d 1207, 1210. Exactly when these conditions are met is not spelled out in R.C. 4141.282(H), but it seems that they are not met where "[t]here is credible evidence in the record [...] [which] supports the findings of the hearing officers." *Giles v. F*

& P Am. Mfg., Inc., Court of Appeals of Ohio, Second District, Miami County, September 15 2010, not reported in N.E.2d, 2005-Ohio-4833.

Pursuant to R.C. 4141.281(C)(2), the Review Commission is the statutory trier-of-fact. This Court must defer to the Review Commission's determination of purely factual issues, including the credibility of witnesses and the weighing of conflicting evidence. Reversal is only appropriate if, viewing the evidence in the light most favorable to the Review Commission's decision, no rational trier-of-fact could agree with the Review Commission's decision.

DISCUSSION

The record before the court reveals that competent, credible evidence existed to support the hearing officer's findings and, consequently, the Review Commission's decision. Specifically, there was evidence before the hearing officer that Mr. Wick voluntarily left his employment without just cause. Just cause has been defined by the courts as, "that which, to an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act." *Irvine v. Unemp. Comp. Bd. of Review*(1985), 19 Ohio St.3d 15, 17. Here, Mr. Wick quit his job because he was receiving very little work and, therefore, I would assume, very little pay. In *Holbrook v. Bd. of Review* (1985), 22 Ohio App.3d 88, 489 N.E.2d 298, the Court determined that an employee was wrongfully denied unemployment benefits on the basis that he quit his job without just cause where the evidence showed he quit only after being told he would soon be laid off and, by quitting, he was able to immediately accept work at a new and better job—these circumstances, the Court determined, justified the employee's decision to quit.

Here, however, there is no evidence Mr. Wick quit his job so that he could start a new better job and there is no evidence, in the transcript, he was told he was to be laid off soon. Instead, Mr. Wick's hours had lessened. Clearly, Mr. Wick was not getting what he wanted out of the job as quickly as he wanted it. He wanted to be trained as a skilled carpenter and he wanted to work enough to pay his bills, and, clearly, he was not getting either. However, as a construction laborer, who can work only when there is work to be done, and whose hours are, therefore, not under his control, justified in quitting his job because there is less work to be

done than he had hoped? Perhaps the answer is yes, if, he has found better employment elsewhere *and* knows his hours will not improve or he is to be laid off, but, as the hearing officer and the review commission have already determined, the answer is no under the circumstances of this case.

CONCLUSION

After a thorough review of all of the evidence presented on appeal, the Court concludes that, although the hearing officer may have misstated some tangential facts in his decision, ultimately, the Review Commission's decision was not "unlawful, unreasonable, or against the manifest weight of the evidence." *Id.* Therefore, the Court hereby AFFIRMS the decision of the Review Commission and denies the within appeal.



JUDGE RICHARD J. O'NEILL

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