

DANIEL M. HARRIGAN

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SUMMIT COUNTY  
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IN THE COURT OF COMMON PLEAS  
COUNTY OF SUMMIT

LINDA GRANT	)	CASE NO. CV-2012-08-4727
	)	
Plaintiff-Appellant	)	JUDGE AMY CORRIGALL JONES
	)	
-vs-	)	
	)	
DIRECTOR, OHIO DEPT. OF JOB AND FAMILY SERVICES, ET AL.	)	<u>ORDER</u>
	)	
Defendant	)	Final and Appealable

- - -

This cause came before the Court upon the Administrative Appeal filed by Plaintiff-Appellant, Linda Grant. This appeal is taken from the February 25, 2011 decision of the Unemployment Compensation Review Commission determining that Appellant had been terminated for just cause.

Appellant timely filed a notice of appeal; a transcript of the proceedings was filed on October 2, 2012. The briefing is complete and the issues raised by this administrative appeal are now deemed submitted. The procedural history is undisputed.

Appellant was terminated on January 27, 2011. Appellant filed an application for determination of benefits and on February 25, 2011, the Director of Ohio Department of Job and Family Services (ODJFS) issued an initial determination that Appellant was discharged without just cause and allowed the application. The Employer filed a timely appeal and on April 17, 2012, the Director transferred jurisdiction to the Review Commission. A telephone hearing before a hearing office was held on June 5, 2012. The hearing officer reversed the Redetermination of Benefits and found that Appellant was discharged with just cause in connection with work. The Review Commission disallowed the Appellant's request for further appeal, mailing its decision on July 19, 2012. Appellant timely filed this appeal.

Appellant was employed by Fred Allstate Insurance Company as a Claims Adjuster from February 8, 1994 to January 27, 2011. In her role as Claims Adjuster, Appellant was responsible for assisting customers with the loss of the personal property and home contents and to determine whether

items could be repaired or salvaged. In late December 2010, early January 2011, Appellant admitted that she took property to her personal home from a fire damaged property. TOP pg. 14. Appellant admitted that she rented a U-haul truck with her own funds to transport the property. TOP pg. 15. Appellant admitted that she did not log the items into the salvage log. TOP pg. 16. Appellant testified that she had transported the property to her house and had called the vendor to pick up the property at her house, but that it took several weeks for the property to be picked up.

When initially questioned about the property, Appellant denied that she had taken the property to her residence or that she had possession of the property. TOP pg. 17. Appellant testified that she was fearful that she would be terminated. TOP pg. 17.

Appellant filed the instant appeal pursuant to R.C. 4141.282(H) asserting that she had been terminated without just cause. Appellant argues that it had been her practice in the past to transport salvage property to her personal residence for a vendor to pick up and that she forgot to log this property into the salvage log. Appellant further asserts that she has concerns regarding age discrimination and further that she has been treated unfairly as compared to other individuals in similar situations.

Appellee asserts that Appellant rented a U-haul truck, with her own funds, to transport salvage property to her own personal residence and did not log the status of the salvage property. Appellee asserts that the policy of employer required that all salvaged items were to be logged and then picked up at the site of the insurance claim by an authorized vendor for cleaning or repair. Appellee asserts that it was never proper for a Claims Representative to take salvage items to their home.

The Hearing Officer determined:

The facts establish that claimant was discharged for just cause in connection with work. She had misappropriated company property. She failed to follow procedure. She was not honest with her employer during the investigation.

Pursuant to R.C. 4141.282(H), this Court can reverse a just-cause decision of the Commission only “when the court finds that the decision of the Commission was unlawful, unreasonable, or against the manifest weight of the evidence.” Lorain Cty. v. State of Ohio Unemployment Review Comm., 2007 Ohio 4347. This Court’s review is limited and the Court is not permitted to make factual findings

or determine the credibility of witnesses. Id., quoting Irvine v. State Unemployment Comp. Bd. of Rev. (1985), 19 Ohio St. 3d 15, 17-18.

On review of an employment dismissal, the appointing authority must demonstrate by a preponderance of the evidence that the allegations against the employee are true. State ex rel. Bispeck v. Board of Commrs. (1988), 37 Ohio St.3d 26, 28. Furthermore, this Court is not required to answer every assignment of error advanced by Appellant. Schira v. Stow (1990), 69 Ohio App.3d 841, 843-844. “Rather, the common pleas court’s inquiry is limited to whether the order of the commission is supported by the preponderance of substantial, reliable and probative evidence.” Barker v. Kattelman (1993), 92 Ohio App.3d 56, 68.

The Hearing Officer determined that pursuant to R.C. 4141.29(D)(2)(a) that no individual shall be paid benefits for the duration of the individuals employment if the individual has been discharged for just cause in connection with the individuals work.

The Hearing Officer supported his decision based Appellant’s violation of company policy for transporting salvaged property onto her own property and failing to log the status of the salvaged property. The Hearing Officer further noted that Appellant had engaged in unethical behavior and that such behavior under the employers rules merited immediate discharge.

In the case at bar, this Court has reviewed the transcript and record properly before it in this administrative appeal. Upon review, this Court finds that the decision of the Commission is supported by a preponderance of substantial, reliable and probative evidence, and is not unconstitutional, illegal, arbitrary, capricious, or unreasonable.

The testimony at the hearing supports a determination that the Appellant violated the employers policies by removing salvage property, with a personally paid for U-haul truck and failure to property log the property. Furthermore, Appellant’s failure to be truthful with her employer upon initial questioning warranted the immediate discharge with just cause.

It is therefore the determination of this Court that the decision of the Hearing Officer is supported by a preponderance of substantial, reliable and probative evidence, and is not

unconstitutional, illegal, arbitrary, capricious, or unreasonable.

IT IS ORDERED AND ADJUDGED this Administrative Appeal by the Appellant is DENIED.

This is a final and appealable order. There is no just cause for delay.

A handwritten signature in black ink, appearing to be 'AJC', written over a horizontal line.

JUDGE AMY CORRIGALL JONES