

IN THE COURT OF COMMON PLEAS  
HIGHLAND COUNTY, OHIO

Lois B. Crowthers

: Case No: 12 CV 0418

Appellant

v.

**FILED**  
COMMON PLEAS COURT  
HIGHLAND COUNTY, OHIO

: DECISION AND FINAL JUDGMENT  
ENTRY AFFIRMING DECISION  
OF UNEMPLOYMENT  
REVIEW COMMISSION

Director, Ohio Department of Job  
and Family Services, et al

FEB 04 2013



Appellee HIGHLAND COUNTY CLERK OF COURTS

This case came before the Court pursuant to R.C. 4141.282(A) on the appeal of the Appellant from the decision of the Ohio Unemployment Review Commission dated September 5, 2012. The Appellee filed the certified record of its proceedings on November 15, 2012. The former employer, Lancaster Colony Corporation and the Claimant have filed their briefs on the matter in accordance with the Court's scheduling orders. The Court has reviewed the pleadings, the arguments of counsel set forth in their briefs and the certified transcript of the Director's file including the transcript of the telephone hearing held on July 30, 2012.

PROCURAL HISTORY OF THE CASE

The Appellant was terminated from her employment in the Human Resources Office of Lancaster Colony Corporation on May 17, 2012. Appellant's initial application for unemployment benefits was disallowed on June 6, 2012. The Appellant filed request for redetermination. On June 29, 2012, the Director issued a redetermination that affirmed the initial determination.

Appellant filed an appeal of the redetermination decision of the Director. Jurisdiction of the appeal was transferred to the Unemployment Review Commission which assigned it to a

hearing officer pursuant to law. The parties submitted written documents to the commission as part of the appeal.

A hearing was conducted by telephone by hearing officer Loi McClesky on July 30, 2012, a transcription of which is part of the certified record filed in this case. On August 8, 2012, the hearing officer issued a decision finding that the Appellant had been discharged by his employer for just cause. On September 5, 2012, the commission adopted the hearing officer's determination and affirmed the disallowance of the claim. Appellant filed a timely notice of appeal of that decision to this court.

#### FINDINGS OF THE HEARING OFFICER

The hearing officer found in her decision that the Appellant had been discharged by the employer for just cause for violation of the employer's policy and procedures on confidentiality. The evidence offered in the hearing established that the Appellant had been asked by a former employee who was terminated for attendance problems for copies of her time cards. The Appellant had printed some and put them in her desk drawer. She then printed some after the employee's termination at a printer in another department. She had a printer in her department.

Appellant called an employee in the other department in which the printer was located to tell her that the copies would be printed and she would pick them up. Angie Smith, another HR employee went to that printer to pick up color copies and discovered the copies of the time card. She told the HR manager, Judy Proto about the issue and through the IT department, they learned that the copies had been printed from the computer at the Appellant's desk.

The company policy on confidentiality provided that confidential information could not be shared with any outside person and not even with other company employees unless it was necessary for the performance of their duties. Appellant stated that she did not think the policy

did not cover time cards, but yet she testified that she was going to ask HR manager Judy Proto for her approval to send them to the former employee before doing so. Ms. Proto testified that the policy was to ask her first and then if approved to print the copies and release them. She testified that the Appellant had followed this procedure in the past.

The hearing officer found that the Appellant's actions violated the company policy on confidential information in that she either knew or should have known that the time cards were confidential information under the policy as she had received training on the policy and received copies of it when she took the position in August of 2011. The hearing officer found that this was sufficient to warrant the termination. The policy specifically provides that violation could result in disciplinary action including termination of employment.

#### STANDARD OF REVIEW BY THE COURT

Pursuant to R.C. 4141.282(H), the Court reviews the certified record of the proceedings of the Appellee and determines whether the decision of the Appellee was unlawful, unreasonable or against the manifest weight of the evidence. If it is, the decision of the commission is to be reversed. If not, it is to be affirmed. The Court does not have the right to substitute its judgment for that of the commission or the hearing officer even if it would have reached a different interpretation of the evidence. The determination of factual questions in the case is primarily one for the hearing officer and the commission. See **Brown-Brockmeyer Co. v. Roach (1947), 148 Ohio St. 511.**

The Appellant's primary argument is that she should not have been terminated for the violation. Rather, she argues that other less severe discipline should have been utilized in view of her otherwise exemplary fifteen year employment with the company. However, the Court

does not have the right to substitute its judgment as to the discipline imposed for that of the employer if the employer's actions are lawful and supported by the record.

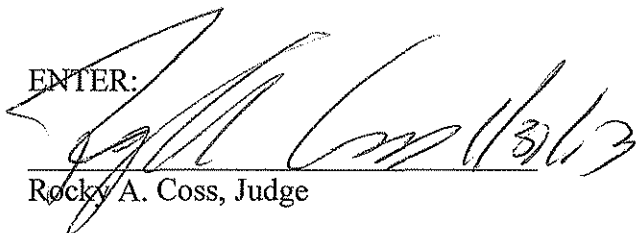
DECISION OF THE COURT

Based upon the Court's review of the certified record in this case, and the consideration of the briefs filed by each of the parties and the provisions of R.C. 4141.282(H), it is the Court's decision that the finding of the hearing officer and Unemployment Review Commission in this case is not unlawful, unreasonable or against the manifest weight of the evidence.

Therefore, it is the judgment of the Court that the decision of the Appellee Director to disallow the Appellant's claim for unemployment benefits due to her discharge for just cause in connection work be and is hereby affirmed and judgment is granted in favor of the Appellees and against the Appellant in this case. This is a final appealable order. The Court finds that there is no just cause for delay. The Clerk of Courts shall deliver a copy of this decision and final judgment entry to all parties and counsel of record.

IT IS SO ORDERED.

ENTER:

  
Rocky A. Coss, Judge