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

ROBERT RALICH
Plaintiff

PROGRESSIVE INSURANCE, ET AL
Defendant

Case No: CV-12-783461

Judge: PETER J CORRIGAN

JOURNAL ENTRY

96 DISP.OTHER - FINAL

THE MATTER BEFORE THE COURT IS A STATUTORY UNEMPLOYMENT COMPENSATION APPEAL FILED BY APPELLANT ROBERT RALICH PURSUANT TO R.C. 4141.282. THE REVIEW COMMISSION FOUND THAT APPELLANT QUIT HIS EMPLOYMENT WITH PROGRESSIVE INSURANCE (EMPLOYER) WITHOUT JUST CAUSE UNDER R.C. 4141.29(D)(2)(A) AND DENIED APPELLANT'S CLAIM FOR UNEMPLOYMENT BENEFITS.

AS GROUNDS FOR HIS APPEAL, APPELLANT ARGUES THAT THE EMPLOYER'S AGREEMENT NOT TO CONTEST HIS UNEMPLOYMENT CLAIM SOMEHOW BINDS THE COMMISSION TO FIND THAT HE IS ENTITLED TO UNEMPLOYMENT BENEFITS. THIS ARGUMENT IS MERITLESS. IT IS IRRELEVANT WHETHER AN EMPLOYER AGREES NOT TO CONTEST ITS EMPLOYEE'S UNEMPLOYMENT CLAIM. AN EMPLOYEE MUST FIRST QUALIFY FOR BENEFITS PURSUANT TO R.C. 4141.29(D)(2)(A). YOUGHIOGHENY & OHIO COAL CO. V. OSZUST, 23 OHIO ST.3D 39, 41 (1986). THIS IS A DETERMINATION MADE BY THE COMMISSION.

HERE, THE HEARING OFFICER DETERMINED THAT APPELLANT GAVE INCONSISTENT REASONS FOR HIS RESIGNATION. ACCORDING TO A QUESTIONNAIRE FILLED OUT WHEN APPELLANT APPLIED FOR BENEFITS, APPELLANT STATED THAT HE QUIT WORK BECAUSE FAMILY ISSUES WERE INTERFERING WITH HIS JOB AND THAT THESE INTERFERENCES WERE CAUSED BY ILLNESSES AND DEATHS OF FAMILY MEMBERS. THE HEARING OFFICER ALSO CONSIDERED APPELLANT'S LATER STATEMENTS MADE AT THE HEARING. AT THE HEARING, APPELLANT CLAIMED HE WAS SUBJECTED TO A HOSTILE WORK ENVIRONMENT CAUSED BY APPELLANT'S ALLEGED HARASSMENT BY HIS SUPERVISOR AND HER CRITICAL AND UNFAIR EVALUATION, WHICH CAUSED HIM STRESS AND POSSIBLY HEART PROBLEMS. THE OFFICER DISCOUNTED THESE STATEMENTS FINDING APPELLANT WAS NOT CLAIMING DISCRIMINATION BASED ON ANY PROTECTED STATUS AND THAT THERE WAS NO EVIDENCE OF HEART DISEASE. THE OFFICER GAVE MORE WEIGHT TO APPELLANT'S EARLIER STATEMENTS. APPELLANT'S CREDIBILITY AND FACTUAL DETERMINATIONS ARE MATTERS TO BE DECIDED BY THE HEARING OFFICER AND REVIEW COMMISSION. THIS COURT CANNOT USURP THE FUNCTION OF THE TRIER OF FACT BY SUBSTITUTING ITS JUDGMENT FOR THE COMMISSION. SIMON V. LAKE GEAUGA PRINTING CO., 69 OHIO ST.2D 41 (1982).

AFTER DUE CONSIDERATION OF THE RECORD, THE BRIEFS FILED BY THE PARTIES, AND THE APPLICABLE LAW, THE COURT FINDS THAT THE DECISION OF THE REVIEW COMMISSION WAS NOT UNLAWFUL, UNREASONABLE OR AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE. THE DECISION IS AFFIRMED PURSUANT TO R.C. 4141.282(H).

COURT COSTS TO BE PAID BY APPELLANT.

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Judge Signature

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