

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

TIERA BRIGGS)	Case No. CV 12-775705
Claimant-Appellant)	
v.)	Judge Hollie L. Gallagher
CLEVELAND CLINIC HEALTH)	
SYSTEM EAST, et al.)	JOURNAL ENTRY AND OPINION
Employer-Appellee)	

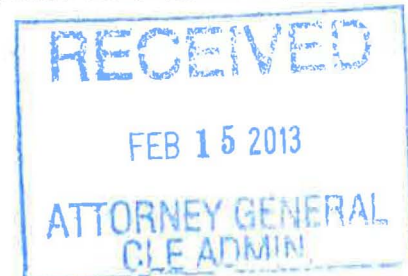
Hollie L. Gallagher, Judge:

This instant case presents an administrative appeal from the Ohio Unemployment Compensation Review Commission under R.C. 4141.282. For the following reasons, the Court affirms the decision of the Review Commission.

I. Facts

The record indicates that Tiera Briggs, (hereafter "Appellant"), was employed as a paramedic for the Cleveland Clinic Health Systems East Region, Inc., (hereafter "Appellee") from 10/06/08- 08/05/11. Following her termination and on 09/08/11, Appellant filed an application for determination of benefit rights.

On 10/07/11, the Director issued an initial determination finding that Appellant was discharged without just cause, and Appellee timely appealed the decision of the Director.



On 11/15/11, the Director issued a redetermination which affirmed the initial ruling. Appellee again appealed, and jurisdiction was transferred to the Unemployment Compensation Review Commission.

A telephonic hearing was held on 12/15/11 before the Unemployment Compensation Review Commission, however, Appellant did not participate. Appellant originally claimed both that she had a family emergency with a sick child, and that she had laryngitis.

The telephonic hearing proceeded without Appellant, and ultimately the Review Commission reversed the decision of the Director. Appellant was found to have been terminated for just cause, and her request for further review was disallowed. This timely appeal followed.

II. Standard of Review

Plaintiff seeks review under R.C. 4141.282(H), entitled, "Review by the Court of Common Pleas" which provides:

"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."

A court may not make factual determinations or substitute its judgment for that of the commission. *Irvine v. Unemployment Compensation Bd. of Rev.* (1985), 19 Ohio St.3d 15. Where the commission might reasonably decide either way, the court has no authority to upset the commission's decision. *Id.* While courts are not permitted to make factual findings or determine the credibility of witnesses, they have the duty to determine

whether the record contains evidence to support the commission's decision. *Tzangas, Plakas & Mannos v. Ohio Bur. of Emp. Servs.*, 73 Ohio St.3d 694, 1995 Ohio 206.

The standard of review in unemployment-compensation appeals is well established. "[A] reviewing court may reverse the board's determination only if it is unlawful, unreasonable, or against the manifest weight of the evidence." *Tzangas*, supra.

In *Irvine*, supra, the Ohio Supreme Court held that reviewing courts may reverse "just cause" determinations "if they are unlawful, unreasonable, or against the manifest weight of the evidence." Moreover, fault on behalf of the employee remains an essential component of a just cause termination. See *Tzangas, Plakas & Mannon*, (1995), 73 Ohio St.3d 694.

"Just cause" is "conduct that would lead a person of ordinary intelligence to conclude the surrounding circumstances justified the employee's discharge." *Carter v. Univ. of Toledo*, 2008-Ohio-1958. When an employee, by her actions, demonstrates an unreasonable disregard for her employer's best interest, there is just cause for her discharge. *Kiikka v. Administrator, Ohio Bureau of Employment Services* (1985), 21 Ohio App.3d 168, paragraph two of the syllabus.

III. Conclusion

In her brief, Appellant asserts that she was entitled to receive unemployment benefits under R.C. 4141.29(D)(2)(a), and that the director for Unemployment Compensation unfairly denied her a valid appeal after granting Appellee multiple, baseless appeals following the initial determination that she was terminated without just cause.

However, and after a thorough review of the briefs and the record before this Court, it is clear that the decision issued by the Review Commission was not unreasonable, unlawful or against the manifest weight of the evidence.

The record is replete with evidence of verbal and written warnings to Appellant prior to her final termination. In compliance with the Cleveland Clinic- East, People Management Policies, the record contains three documents entitled, "Employee Corrective Action Report." Under the "Action Being Taken" section, it shows that Appellant was first given "Documented Counseling," on 1/06/09, then a "Written Warning" on 3/11/09, then a "Final Written Warning" on 5/12/09.

Also included in the record are notes from Appellant's manager, Kathy Doytek, that state, "[o]n Feb. 10, 2011 I spoke to Tiera in regards to her attendance points. I offered to change her start time to allow her to get to work on time. She declined the offer stating, "I can get to work on time." She was told that 3 more points would put her in final corrective action which would result in termination. She stated that she understood."

Moreover, the record also contains notations from an additional meeting only five months later and on 7/19/11 where Appellant's her previous accrual of points was discussed. The meeting notes state, "we discussed all the points I have generously taken off for her even though they should have been counted." (7/19/11 notes, par. 1). The meeting notes also indicate that Appellant was made aware that this meeting was her final corrective action which means termination. (7/19/11 meeting, par. 1). The notes are signed by Manager Kathy Doytek.

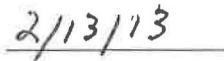
As to any "fault" on the part of Appellant, the record supports the determination that Appellant was given multiple verbal and written warnings before her ultimate termination.

This Court is mindful that, "a reviewing court may reverse the board's determination only if it is unlawful, unreasonable, or against the manifest weight of the evidence." *Tzangas*, supra. Having reviewed the full record before the Court, all decisions, and all testimony, finds that the determinations that Claimant was terminated for "just cause" are not unlawful, unreasonable, or against the manifest weight of the evidence.

Therefore, the determination of the Review Commission finding Appellant was terminated for just cause is affirmed. Appeal denied. Final. Costs to Claimant-Appellant.



Judge Hollie L. Gallagher



Date