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

CASE WESTERN RESERVE UNIVERSITY
Plaintiff

BRYAN W. DOREIAN ETAL
Defendant

Case No: CV-12-783488

Judge: DEENA R CALABRESE

JOURNAL ENTRY

89 DIS. W/ PREJ - FINAL

THIS MATTER IS BEFORE THE COURT UPON APPELLANT'S ADMINISTRATIVE APPEAL OF THE OHIO UNEMPLOYMENT COMPENSATION REVIEW COMMISSION'S DECISION, DATED MARCH 9, 2012, THAT BRYAN DOREIAN FILED A VALID APPLICATION FOR UNEMPLOYMENT BENEFITS AS THE RESULT OF HIS SEPARATION FROM EMPLOYMENT WITH CASE WESTERN RESERVE UNIVERSITY.

UNDER R.C. 4141.282(A), "ANY INTERESTED PARTY, WITHIN THIRTY DAYS AFTER WRITTEN NOTICE OF THE FINAL DECISION OF THE UNEMPLOYMENT COMPENSATION REVIEW COMMISSION WAS SENT TO ALL INTERESTED PARTIES, MAY APPEAL THE DECISION OF THE COMMISSION TO THE COURT OF COMMON PLEAS." UNDER R.C. 4141.282(H) "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 FACT THAT REASONABLE MINDS MIGHT REACH DIFFERENT CONCLUSIONS IS NOT A BASIS FOR THE REVERSAL OF THE BOARD'S DECISION." TZANGAS, PLAKAS & MANNOS V. OHIO BUR. OF EMP. SERV., 73 OHIO ST. 3D 694, 697 (1995). THE BOARD'S ROLE AS FACTFINDER IS INTACT: A REVIEWING COURT MAY REVERSE THE BOARD'S DETERMINATION ONLY IF IT IS UNLAWFUL, UNREASONABLE, OR AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE. ID.

BASED ON THE RELEVANT AUTHORITY, THE COURT AFFIRMS THE DECISION OF THE OHIO UNEMPLOYMENT COMPENSATION REVIEW COMMISSION, AND FINDS THAT BRYAN DOREIAN MAINTAINED A VALID "EMPLOYMENT" POSITION WITH CASE WESTERN RESERVE UNIVERSITY AS A POST-DOCTORAL SCHOLAR. UNDER R.C. 4141.01(B)(1), "[E]MPLOYMENT' MEANS SERVICE PERFORMED BY AN INDIVIDUAL FOR REMUNERATION UNDER ANY CONTRACT OF HIRE;" BRYAN DOREIAN PERFORMED BIOMEDICAL RESEARCH SERVICES UNDER THE CONTROL AND FOR THE BENEFIT OF CASE WESTERN RESERVE UNIVERSITY. CASE WESTERN RESERVE UNIVERSITY'S LETTER OF EMPLOYMENT DESCRIBED THE CIRCUMSTANCES OF BRYAN DOREIAN'S EMPLOYMENT, STATING THAT HIS "ANNUAL SALARY AMOUNT FROM CASE WILL BE \$43,476 PLUS SINGLE COVERAGE IN THE POSTDOCTORAL BENEFITS PROGRAM;"

UNDER R.C. 4141.01(B)(3), "EMPLOYMENT' DOES NOT INCLUDE THE FOLLOWING SERVICES;(E);(I) SERVICE IN THE EMPLOY OF AN EDUCATIONAL INSTITUTION OR INSTITUTION OF HIGHER EDUCATION, INCLUDING THOSE OPERATED BY THE STATE OR A POLITICAL SUBDIVISION, IF SUCH SERVICE IS PERFORMED BY A STUDENT WHO IS ENROLLED AND IS REGULARLY ATTENDING CLASSES AT THE EDUCATIONAL INSTITUTION OR INSTITUTION OF HIGHER EDUCATION." IN THIS CASE, HOWEVER, IT IS UNDISPUTED THAT BRYAN DOREIAN WAS NOT ENROLLED AND REGULARLY ATTENDING CLASSES AT CASE WESTERN RESERVE UNIVERSITY.

BASED ON THE FOREGOING AUTHORITY, APPELLANT'S ADMINISTRATIVE APPEAL IS DENIED. AND THE COURT HEREBY AFFIRMS THE DECISION OF THE OHIO UNEMPLOYMENT COMPENSATION REVIEW COMMISSION.

IT IS SO ORDERED.

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03/06/2013

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COURT COST ASSESSED TO THE PLAINTIFF(S).

Jenna Calabrese

Judge Signature

03/06/2013