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AUGLAIZE COUNTY
COMMON PLEAS COURT
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2013 MAR 14 P 3:12

J. JEAN HECKSTROTH
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IN THE COMMON PLEAS COURT OF AUGLAIZE COUNTY, OHIO

TREVA A. HICKS,

APPELLANT,

v.

STATE OF OHIO UNEMPLOYMENT
COMPENSATION REVIEW
COMMISSION, et al.,

APPELLEES.

* JUDGE FREDERICK PEPPLER

* CASE NUMBER 2012CV0256

* JUDGMENT ENTRY

This is an administrative appeal from the Ohio Unemployment Compensation Review Commission filed under R.C. 4141.282. The Review Commission found that appellant, Treva Hicks, was initially approved for \$26,754.00 in Trade Adjustment Allowance benefits but, through no fault of her own, received a total of \$28,126.00 and, thus, was overpaid by \$1,372.00.

20 C.F.R. §617.55 requires any individual who receives an overpayment of benefits to repay the amount in dispute. But it permits state agencies to waive this repayment obligation where (1) the overpayment was made without fault on the part of the recipient

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and (2) requiring repayment would be "contrary to equity and good conscience." See 20 C.F.R. 617.55(a)(1). In determining this second criterion, the finder of fact shall consider, inter alia, whether the repayment obligation will cause extraordinary hardship on the individual. 20 C.F.R. 617.55(a)(2)(i)(B)(2) and 20 C.F.R. 617.55(a)(2)(i)(C)(1).

Here, the Review Commission summarily concluded that appellant has not established that a repayment order would result in extraordinary hardship. This Court disagrees. Appellant's documentary evidence establishes that she is already saddled with, among other financial obligations, (1) \$51.00 monthly payments to a local hospital; (2) out-of-pocket medical expenses that as of June 2012 had already approached \$1,000.00; and (3) close to \$2,000.00 in other necessary monthly expenses, including gasoline, groceries, and monthly payments on a new home HVAC unit. This list apparently does not include home- and car-maintenance costs and the fact that the family home will soon need a new roof. The Review Commission's decision does not weigh these obligations against appellant's modest annual family income of "[a]bout \$35,000.00" (see June 5, 2012, hearing transcript at 9).

R.C. Chapter 4141 is remedial, *Continental Airlines, Inc. v. Dir., Ohio Dept. of Job & Family Servs.*, 173 Ohio App.3d 311, 2007-Ohio-5434, ¶21 (8th Dist.), and, thus, is to be construed liberally, *id.*; R.C. 4141.46; *Lorain Cty. Auditor v. Ohio Unemp. Comp. Rev. Comm.*, 113 Ohio St.3d 124, 2007-Ohio-1247, at ¶13. This Court finds that its repayment order, especially given that the overpayment was not appellant's fault, is not supported by substantial evidence. See R.C. 4141.282(H); *Lang v. Ohio Dept. of Job & Family Servs.*, — Ohio St.3d —, Slip. Opinion No. 2012-Ohio-5366, at ¶11.

Accordingly, it is ordered that the decision of the Ohio Unemployment Compensation Review Commission is affirmed insofar as appellant was overpaid in the

amount of \$1,372.00. It is further ordered, however, that due to the financial hardship that would result, appellant need not repay this or any overpayment pertaining to this claim.

Costs to be divided between appellant and appellee Director, Ohio Department of Job and Family Services.

3-14-13
Date

[Signature]
Judge

[Signature]
Kimberly S. Kislig
Counsel for appellant

[Signature]
Rick Baum, Asst. Attorney General
Counsel for appellee Director, Ohio
Department of Job and Family
Services

[Signature]
Treva Hicks
Appellant

cc: Kimberly Kislig, Counsel for appellant
Rick Baum, Counsel for Ohio Dept. of Job and Family Services