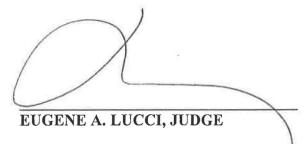
## FIN THE COURT OF COMMON PLEAS LAKE COUNTY, OHIO

JOHN ROPER APR -5 P 2: 15	) CASE NO. 12CV002571
Appellant CO. CLERK OF COURT	) ) JUDGE EUGENE A. LUCCI
vs.	ORDER AFFIRMING DECISION
NUCLIOI C MANUEL COLUDINO	OF UNEMPLOYMENT
NICHOLS MANUFACTURING,	) <u>COMPENSATION REVIEW</u>
INC., et al.	) <u>COMMISSION</u>
	)
Appellee	)
* *	,

- {¶1} The court has considered: (1) the appellant's notice of appeal, filed September 21, 2012; (2) the Unemployment Compensation Review Commission (Review Commission) record, filed November 13, 2012; (3) the appellant's brief, filed February 28, 2013; and (4) the appellee's brief, filed March 12, 2013.
- {¶2} The appellant filed an application for unemployment benefits on March 7, 2012. On May 4, 2012, an initial determination was issued, finding that the appellant was not eligible for benefits because he was discharged for just cause. The appellant appealed the initial determination, and on June 4, 2012, the director issued a redetermination affirming the initial determination. The appellant filed an appeal from the redetermination, and the matter was transferred to the Review Commission.
- {¶3} A telephone hearing was conducted on July 10, 2012. On July 13, 2012, the hearing office issued a decision, finding that the appellant was not eligible for unemployment benefits because he quit his employment without just cause. Appellant filed a request for review which was disallowed by the Review Commission. On September 21, 2012, the appellant filed the instant appeal. The issues have been fully briefed.
- {¶4} R.C. 4141.282(H) limits the scope of review by the court on appeal from a Review Commission decision. 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." R.C. 4141.282(H).
- {¶5} A decision supported by some competent, credible evidence going to all essential elements of the dispute will not be reversed on appeal as being against the manifest weight of the evidence. *Shavers v. Administrator, Ohio Bureau of Unemployment Services*, 11<sup>th</sup> Dist. No. 3738, 1987 WL 26702 (Dec. 4, 1987). Accordingly, the duty of the reviewing court is to determine whether the Review Commission's decision is supported by the evidence in the record. *Fredon Corp v. Zelenek*, 124 Ohio App. 3d 103, 109, 705 N.E.2d 703 (11<sup>th</sup> Dist. 1997).
- In fact, if an issue is close and the Review Commission could conceivably decide either way, courts must affirm the commission. Fisher at ¶ 24. Thus, that the appellant presents evidence which, if believed, could result in a different finding does not make the Review Commission's decision unlawful, unreasonable, or against the manifest weight of the evidence.
- {¶7} The appellant maintains that he was fired from his employment. However, the hearing officer found that on March 7, 2012, the appellant left the premises of his employer and failed to return, thereby abandoning his employment. The hearing officer, based on this finding, determined that the appellant had quit his employment without just cause. The employer presented testimony at the July 10, 2012 telephone hearing that on March 7, 2012, the appellant left work for lunch and failed to return. Transcript of July 10, 2012 telephone hearing, pp. 8-9.
- {¶8} The record contains competent, credible evidence supporting the hearing officer's findings. Accordingly, the decision of the Review Commission is not unlawful, unreasonable, or against the manifest weight of the evidence. Therefore, the decision of the Review Commission is affirmed. Court costs are assessed to the appellant.

## $\{\P9\}$ IT IS SO ORDERED.



c: John Roper, Appellant Nichols Mfg. Laurence Snyder, Esq., Attorney for ODJFS

> FINAL APPEALABLE ORDER Clerk to serve pursuant To Civ.R. 58(B)