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

KIMBERLY M. EGGERT
Plaintiff

MICHAEL B. COLBERT, DIR. , ET AL
Defendant

Case No: CV-12-790258

Judge: PETER J CORRIGAN

JOURNAL ENTRY

96 DISP.OTHER - FINAL

THE MATTER COMES BEFORE THE COURT AS A STATUTORY UNEMPLOYMENT COMPENSATION APPEAL FILED BY APPELLANT/CLAIMANT KIMBERLY EGGERT PURSUANT TO R.C. 4141.282. EGGERT APPEALS FROM THE DECISION OF THE OHIO UNEMPLOYMENT COMPENSATION REVIEW COMMISSION THAT DENIED HER CLAIM FOR UNEMPLOYMENT BENEFITS ON THE BASIS THAT EGGERT WAS DISCHARGED BY APPELLEE, THE ELIZA JENNINGS SERVICES CORP. FOR JUST CAUSE UNDER R.C. 4141.29(D)(2)(A).

THE HEARING OFFICER DETERMINED THAT EGGERT VIOLATED APPELLEE'S WRITTEN POLICY PROHIBITING EMPLOYEES FROM SLEEPING WHILE ON DUTY. VIOLATIONS OF THE POLICY CAN RESULT IN IMMEDIATE DISCHARGE AND EGGERT WAS AWARE OF THE POLICY. THE RECORD SUPPORTS THIS DECISION.

WHILE EGGERT DENIES THAT SHE WAS CAUGHT SLEEPING ON THE JOB, APPELLEE'S EMPLOYEES TESTIFIED OTHERWISE. THE HEARING OFFICER CHOSE TO BELIEVE APPELLEE'S WITNESSES. AS THE TRIER OF FACT, THE HEARING OFFICER AND REVIEW COMMISSION ARE VESTED WITH THE POWER TO REVIEW THE EVIDENCE AND TO BELIEVE OR DISBELIEVE THE TESTIMONY OF WITNESSES. TZANGAS, PLAKAS & MANNOS V. OBES, 73 OHIO ST.3D 694 (1995). THEREFORE, THE COMMON PLEAS COURTS MUST DEFER TO THE REVIEW COMMISSION WITH RESPECT TO PURELY FACTUAL ISSUES THAT CONCERN THE CREDIBILITY OF WITNESSES AND WEIGHT OF THE CONFLICTING EVIDENCE.

THE REVIEW COMMISSION'S DECISION IS 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.
COURT COST ASSESSED AS DIRECTED.

Judge Signature

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