

**COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO  
CIVIL DIVISION**

**JEREMY JARVIS,** :  
 :  
 **Appellant,** : **CASE NO. 12CV-10-12677**  
 :  
 **-vs-** : **JUDGE KIMBERLY COCROFT**  
 :  
 :  
 **DIRECTOR, OHIO DEPARTMENT** :  
 **OF JOB AND FAMILY SERVICES, et al.,** :  
 :  
 **Appellees.** :

**DECISION AND ENTRY**

**COCROFT, JUDGE**

This matter comes before this Court upon an appeal pursuant to R.C. § 4141.282(H) from a September 6, 2012 Decision of the Unemployment Compensation Review Commission (“Review Commission”). The claimant, Jeremy Jarvis, was employed as an assistant webmaster for the State Teachers Retirement System (“STRS”). The employer terminated the claimant’s employment on April 9, 2012. Thereafter, he filed an application for determination of benefit rights. The claimant’s application was allowed with a benefit year beginning April 8, 2012. On June 5, 2012, the director issued a redetermination and held that the claimant was discharged by his employer without just cause in connection with work. On June 19, 2012, STRS, the appellant’s employer, filed an appeal.

Thereafter, on July 13, 2012, the Ohio Department of Job and Family Services transferred the matter to the Unemployment Compensation Review Commission pursuant to R.C. 4141.281. On July 31, 2012, Hearing Officer Leanne Colton held an evidentiary hearing, via telephone. The appellant appeared and offered testimony. The employer, STRS, was represented by Anita

Brenner. The employer presented the testimony of Patrick Dawson, who is the webmaster for STRS and was the appellant's supervisor.

In her August 2, 2012 Decision, the hearing officer reversed the director's June 5, 2012 redetermination and held that the appellant's "Application for Determination of Benefit Rights is disallowed as claimant was separated from employment under disqualifying conditions. Specifically claimant was discharged by State Teachers Retirement System of Ohio for just cause in connection with work." See August 2, 2012 Decision. On August 22, 2012, the appellant filed a request for review. Thereafter, the Review Commission disallowed the appellant's request for review and issued a decision affirming the findings and determination of the hearing officer. See September 6, 2012 Decision.

In the August 2, 2012 Decision, the hearing officer made the following factual findings:

Claimant was employed by the State Teachers Retirement System of Ohio from August 15, 2005 until April 9, 2012. At the time of his separation, he was employed as an assistant webmaster.

Claimant had worked in the position of assistant webmaster during the entire length of his employment with the employer. His job duties were explained to him when he was hired, and they did not change during his employment. Claimant had been able to perform these duties satisfactorily in the past. His primary responsibility was the employer's intranet website, but he was also to help with the external internet website when needed.

Claimant began having problems with his job performance, and this was discussed with several times. It was also discussed with him during his review in May 2011. He was not completing projects correctly, failed to recognize that he was responsible for ensuring that there were no mistakes on the intranet, and failed to show any initiative or interest in doing any work beyond what he was explicitly told to do. When claimant's performance did not show any improvement, he was placed on a performance improvement plan (PIP) on July 6, 2011. He was given 2 months to complete this PIP, and did so successfully on September 6<sup>th</sup>. Claimant was advised that he was expected to maintain and/or exceed the performance level that he had shown during that period.

Following the end of that PIP, claimant's performance again began to decline. The employer again found mistakes on the intranet, failed to do cross-training with the communications assistant quarterly as required, and failed to implement a revised communication plan and meet with the professional development coach, which were

requirements given to him after he completed the July 6<sup>th</sup> PIP. Based on these issues, claimant was placed on a new PIP on February 1, 2012. He was given until April 3, 2012 to meet the requirements of this PIP, and was advised that if he did not do so he would be terminated. Although he met with Mr. Dawson during the PIP, he failed to show that he was meeting these requirements or improving his job performance. He did not successfully complete the PIP, and was subsequently discharged on April 9, 2012.

See Findings of Fact, August 2, 2012 Decision.

### **Standard of Review**

This Court must uphold the decision of the Review Commission unless it concludes, upon a review of the record, that the decision is unlawful, unreasonable or against the manifest weight of the evidence. See R.C. 4141.282(H); see also *Tzangas, Plakas & Mannos v. Ohio Bur. Emp. Serv.*, 73 Ohio St. 3d 694 (1995), and *Irvine v. Unemp. Comp. Bd. of Rev.*, 19 Ohio St. 3d 15, (1985). While a reviewing court is “not permitted to make factual findings or to determine the credibility of witnesses, [it does] have a duty to determine whether the [review commission’s] decision is supported by the evidence in the record.” *Tzangas, Plakas & Mannos*, Ohio St. 3d at 696.

The Unemployment Compensation Act (“Act”) does not exist to protect employees from their own conduct, but rather to protect employees from economic forces over which they have no control. When an employee is at fault, he or she is no longer the victim of fortune’s whims but instead is directly responsible for his or her own predicament. Fault on the employee’s part separates him or her from the Act’s intent and the Act’s protection. Therefore, the claimant has the burden of proving that he or she is entitled “to unemployment compensation benefits, including the existence of just cause for quitting work.” *Irvine*, at 17. If the individual quit work without just cause he or she may not be paid benefits. See R.C. 4141.29(D)(2)(a).

In *Irvine*, the Supreme Court of Ohio held that just cause is “that which, to an ordinary intelligent person, is a justifiable reason for doing or not doing a particular act.” *Irvine* at 15.

The determination of whether just cause exists depends upon the unique factual considerations of the particular case. *Id.* at 17-18.

### **Appellant's Argument**

The *pro se* appellant did not assert any assignments of error in his brief. Thus, this Court will review the record to determine whether the Review Commission's September 6, 2012 Decision is unlawful, unreasonable or against the manifest weight of the evidence. See R.C. 4141.282(H); see also *Tzangas, Plakas & Mannos v. Ohio Bur. Emp. Serv.*, (1995), 73 Ohio St. 3d 694, and *Irvine v. Unemp. Comp. Bd. of Rev.* (1985), 19 Ohio St. 3d 15.

Appellant asserts in his brief that the issue isn't whether he performed the requirements of his job at the time of termination, but whether he performed the requirements of the job that he was hired for originally in 2005. The appellant asserts that there were unreasonable increases and changes to his job description during the course of his employment with STRS. See Appellant's Brief.

### **Appellee's Argument**

The appellee, Director of the Ohio Department of Job and Family Services, asserts that the September 6, 2010 Decision of the Review Commission is lawful, reasonable and not against the manifest weight of the evidence. The appellee urges this Court to affirm the Review Commission's September 6, 2010 Order.

### **Law and Analysis**

In order to receive unemployment compensation benefits, an individual must have quit work with just cause. R.C. 4141.29(D)(2)(a). The Supreme Court of Ohio defined just cause to be "that which, to an ordinary intelligent person, is a justifiable reason for doing or not doing a particular act." See *Irvine*, at 17. In that case, the Court also held that "[t]he determination of

whether just cause exists . . . depends upon the unique factual considerations of the particular case.” *Id.*

Upon review, there is evidence in the record to support that the Review Commission’s September 6, 2012 Decision is lawful, reasonable and is not against the manifest weight of the evidence. See R.C. 4141.282(H); see also *Tzangas, Plakas & Mannos v. Ohio Bur. Emp. Serv.*, (1995), 73 Ohio St. 3d 694. The record supports the fact that the appellant was experiencing job performance problems and was placed on a performance improvement plan, not only once but twice, and still was not able to meet the requirements of the PIP. See Tr. 6-7; see also Findings of Fact, August 2, 2012 Decision.

The appellant asserts that there were unreasonable job changes during the course of his employment and that this Court should consider whether he was performing the job duties that were assigned to him at the time he was hired in 2005. The appellant, as an assistant webmaster, should be the first person to realize that a job in technology is always evolving given the continual advancements in that field. Thus, this Court will not review this case based on a 2005 job description that is not in evidence, and clearly is not relevant, given the nature of the on-going advancements in this field seven years later.

Accordingly, the record supports that the appellant is not eligible for unemployment benefits because he was discharged with just cause based on continually job performance issues. See R.C. 4141.29(D)(2)(a); see also Tr. 5, 6, 8, 11. This court concludes, as a matter of law, that the record supports that the employer was reasonable in finding fault on behalf of the appellant, and terminated the appellant with just cause.

The appellant chose to represent himself in this case. Ohio law is clear that *pro se* litigants are to be held to the same standard as an attorney. With respect to procedural rules, *pro*

*se* litigants are held to the same standards as a practicing attorney. The *pro se* litigant is to be treated the same as one trained in the law as far as the requirement to follow procedural law and adhere to court rules. If the court treats a *pro se* litigant differently, the court begins to depart from its duty of impartiality and prejudices the handling of the case as it relates to other litigants represented by counsel. See *Justice v. Lutheran Social Servs.*, 1993 Ohio App. LEXIS 2029.

The fundamental requirements of procedural due process are notice and hearing and ultimately, an opportunity to be heard. Providing that person with notice and a hearing is all that is necessary in order to comply with due process in an administrative proceeding. See *Coleman v. State Medical Board of Ohio* (10<sup>th</sup> Dist. App. 2007), 2007 Ohio 5007, 2007 Ohio App. LEXIS 4916. In the context of an administrative law hearing, the due process afforded to the individual is an opportunity to be heard. The record demonstrates that the appellant in this case was afforded that opportunity.

Upon review of the record, the Court concludes, as a matter of law, that the Review Commission complied with R.C. 41412.281(C)(5). In its September 6, 2012 Decision the Review Commission states, in pertinent part:

The appellant shown above filed a Request for Review to the Review Commission, pursuant to the provisions of Section 4141.281(A)(3), Revised Code of Ohio, from the Hearing Officer's decision.

Upon consideration thereof, and upon a review of the entire record, the Commission concludes that the Request for Review should be disallowed.

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The Request for Review is hereby disallowed.

See September 6, 2012 Decision.

**DECISION**

Accordingly, the Review Commission was well within its discretion to disallow further review of the appellant's case. See R.C. 4141.281(C)(5). This Court concludes that the Review Commission's September 6, 2012 Decision is lawful, reasonable, and supported by the manifest weight of the evidence. Accordingly, the Review Commission's September 15, 2010 Decision is hereby **AFFIRMED**.

Rule 58(B) of the Ohio Rules of Civil Procedure provides the following:

**(B) Notice of filing.** When the court signs a judgment, the court shall endorse thereon a direction to the clerk to serve upon all parties not in default for failure to appear notice of the judgment and its date of entry upon the journal. Within three days of entering the judgment on the journal, the clerk shall serve the parties in a manner prescribed by Civ. R. 5(B) and note the service in the appearance docket. Upon serving the notice and notation of the service in the appearance docket, the service is complete. The failure of the clerk to serve notice does not affect the validity of the judgment or the running of the time for appeal except as provided in App. R. 4(A).

**THE COURT FINDS THAT THERE IS NO JUST REASON FOR DELAY. THIS IS A FINAL APPEALABLE ORDER.** Pursuant to Civil Rule 58, the Clerk of Court shall serve notice upon all parties of this judgment and its date of entry.

IT IS SO ORDERED.

Copies to all parties registered for e-filing

Franklin County Court of Common Pleas

**Date:** 04-30-2013

**Case Title:** JEREMY JARVIS -VS- OHIO STATE DEPT JOB FAMILY  
SERVICES DIRE ET AL

**Case Number:** 12CV012677

**Type:** DECISION/ENTRY

It Is So Ordered.

A handwritten signature in black ink is written over a circular blue seal. The seal contains the text "FRANKLIN COUNTY OHIO" and "ALL THINGS ARE POSSIBLE".

/s/ Judge Kimberly Cocroft



Court Disposition

Case Number: 12CV012677

Case Style: JEREMY JARVIS -VS- OHIO STATE DEPT JOB FAMILY  
SERVICES DIRE ET AL

Case Terminated: 18 - Other Terminations

Final Appealable Order: Yes