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# IN THE COURT OF COMMON PLEAS CUYAHOGA COUNTY, OHIO

OHIO TURNPIKE COMMISSION  
Plaintiff

Case No: CV-11-751859

Judge: DICK AMBROSE

KEN M. HOLBROOK, ET AL  
Defendant

## JOURNAL ENTRY

96 DISP.OTHER - FINAL

THIS CASE INVOLVES A CLAIM FOR UNEMPLOYMENT BENEFITS THAT WAS ALLOWED BY THE OHIO UNEMPLOYMENT COMPENSATION REVIEW COMMISSION (UCRC) IN FAVOR OF KEN M. HOLBROOK AND AGAINST THE OHIO TURNPIKE COMMISSION. CLAIMANTS WHO ARE TERMINATED FROM THEIR UNEMPLOYMENT WITHOUT "JUST CAUSE" ARE ELIGIBLE FOR UNEMPLOYMENT BENEFITS. TZANGAS, PLAKAS & MANNOS V. OHIO BUR. OF EMP. SERV., 73 OHIO ST.3D 694, 653 N.E.2D 1207 (1995); R.C. 4141.29(D)(2)(A). PURSUANT TO R.C. 4141.282(H), THIS COURT HAS JURISDICTION TO HEAR APPEALS FROM THE UCRC. "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." ID. ADDITIONALLY, "A REVIEWING COURT MAY NOT MAKE FACTUAL FINDINGS OR DETERMINE A WITNESS'S CREDIBILITY AND MUST AFFIRM THE COMMISSION'S FINDING IF SOME COMPETENT, CREDIBLE EVIDENCE IN THE RECORD SUPPORTS IT." WILLIAMS V. OHIO DEPT. OF JOBS & FAMILY SERV., 129 OHIO ST.3D 332, 2011-OHIO-2897, ¶ 20.

UPON REVIEW, THIS COURT FINDS THAT THE HEARING OFFICER'S CONCLUSION THAT HOLBROOK'S "TESTIMONY IS MORE CREDIBLE THAN THE HEARSAY TESTIMONY AND EVIDENCE FROM THE EMPLOYER'S WITNESS" IS SUPPORTED BY COMPETENT EVIDENCE IN THE RECORD. ALTHOUGH THE RULES OF EVIDENCE DO NOT STRICTLY APPLY TO ADMINISTRATIVE HEARINGS, IT IS CLEAR THAT THE HEARING OFFICER CONSIDERED AND WEIGHED ALL OF THE EVIDENCE, AND THAT LABELING THE EMPLOYER'S EVIDENCE AS HEARSAY WAS A DISTINCTION WITHOUT A DIFFERENCE. SEE, HALEY V. OHIO STATE DENTAL BD., 7 OHIO APP.3D 1, 453 N.E.2D 1262 (1982). ACCORDINGLY, THE DECISION IS AFFIRMED. FINAL. IT IS SO ORDERED. COURT COST ASSESSED TO THE PLAINTIFF(S).

Judge Signature

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THE STATE OF OHIO }  
Cuyahoga County }

SS. I, THE CLERK OF THE COURT  
OF COMMON PLEAS WITHIN  
AND FOR SAID COUNTY,

HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY  
TAKEN AND COPIED FROM THE ORIGINAL

*Edoardo 6/6/13*  
NOW ON FILE IN MY OFFICE.  
WITNESS MY HAND AND SEAL OF SAID COURT THIS  
DAY OF *June* A.D. 20 *13* Page 1 of 1

CUYAHOGA COUNTY CLERK OF COURTS  
By *[Signature]* Deputy