

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO
CIVIL DIVISION

LATRECEYUANA F. REECE,
Appellant,

CASE NO.: 2012 CV 06308

JUDGE BARBARA P. GORMAN

-vs.-

OHIO DEPARTMENT OF JOB & FAMILY
SERVICES, ET AL.,

Appellee(s).

**DECISION, ORDER AND ENTRY
DENYING APPELLANT'S NOTICE OF
APPEAL**

This matter is before the Court on the *Notice of Appeal* filed by Appellant Latreceyauna F. Reece. The *Brief of Appellant* was filed by Appellant on January 10, 2013. The *Brief of Appellee, Department of Job and Family Services* was filed on February 11, 2013. The *Brief of Appellee, Caresource Management Group Co.* was filed on February 11, 2013. This matter is properly before the Court.

I. FACTS

Appellant Latreceyauna Reece (“Appellant”) is appealing the decision of the Ohio Unemployment Compensation Review Commission (“the Commission”) that found, after a second review, the Appellant had been discharged from her employment with just cause and was thus not entitled to unemployment benefits.

The Appellant was employed at Caresource Management Co. January 8, 2007 as a Claims Analyst. Thereafter, she assumed the position of Member Benefits System Analyst in December 2010. Ultimately, Appellant was discharged on February 22, 2012 for failing to complete the

required certifications for the position. The requirements for the certification were listed in the job description for the position when Appellant applied. Additionally, the certification was discussed with Appellant during the interview for the position.

Appellant claims that she did not have notification of the requirement, and furthermore, was not made aware that she would be terminated if she did not pass the exams. Appellant says she would have not taken the position if she had known about the requirements. Appellant claims that she was not given a full year to take the test, could not register herself, and was not registered by the company after three requests.

Appellees assert they gave the Appellant ample time to complete the requirements and even extended the time frame two months to achieve the certification, which gave the her a fourteen month time period. The Appellant failed one of the tests four times that would have satisfied the requirement. Moreover, Appellee states they provided assistance to Appellant for study-strategy, timing of test scheduling, and reminders to schedule the exams. Appellee has documented a verbal and final written warning stating that termination of employment was the potential outcome, which is signed by the Appellant.

II. LAW & ANALYSIS

This appeal of the Commission’s ruling is pursuant to O.R.C. Section 4141.282(H), which permits the review of an order of the Commission by the appropriate common pleas court.

A. Standard of Review

Under R.C. 4141.282(H), a common pleas court shall affirm the decision of the Commission unless “the court finds that the decision of the [C]ommission was unlawful, unreasonable, or against the manifest weight of the evidence” Thus, the standard of review is not de novo, and this Court must affirm the Commission’s ruling unless it is unlawful, unreasonable or against the manifest weight of the evidence. The Ohio Supreme Court has held that “[t]he board’s role as factfinder is intact; a reviewing court may reverse the board’s determination only if it is unlawful, unreasonable or against the manifest weight of the

evidence. *Tzangas, Plakas & Mannos v. Ohio Bur. Of Empl. Serv.* (1995), 73 Ohio St.3d 694. Although an administrative agency's decision should not be "rubber-stamped," parties are not entitled to de novo review. *Kilgore v. Board of Review* (1965), 2 Ohio App.2d 69.

B. The Commission's determination was not unlawful, unreasonable or against the manifest weight of the evidence.

O.R.C. Section 4141.29(D)(2)(a) sets forth the statutory rule regarding eligibility and qualification for unemployment compensation benefits. This section provides:

(D) Notwithstanding division (A) of this section, no individual may serve a waiting period or be paid benefits under the following conditions:

(2) For the duration of the individual's unemployment if the director finds that:

(a) The individual quit work without just cause or has been discharged for just cause in connection with the individual's work.

"Just cause is defined as "that which, to an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act." *Irvine v. Unemployment Comp. Bd. of Review* (1985), 19 Ohio St. 3d 15, 17, 482 N.E.2d 587, quoting *Peyton v. Sun T.V.* (1975), 44 Ohio App. 2d 10, 12, 335 N.E.2d 751. The court stated that the fairness of a policy for which an employee is being discharged must be considered, specifically, "(1) whether the employee received notice of the policy; (2) whether the policy could be understood by the average person; (3) whether there is a rational basis for the policy, and (4) whether the policy instituted by the employer was applied to some individuals but not to others." *Hefflinger v. Whitacre Trucking*, 66 Ohio Misc. 2d 85, 88 (Ohio C.P. 1994).

In the case at bar, the Appellant claims she did not have notification of the requirement, was not given reasonable time period to complete the examination, and was not afforded the same rights as other employees with assistance to registering for the exam. The Appellant allegedly did not know about the requirement regarding the exam, but somehow managed to request to be registered for the exam on three separate occasions. The Appellant was also given official warnings regarding her status of the examination, and within the warnings it disclosed the possibility for termination. Tr. p. 12. This shows the Appellant had knowledge of the policy regarding her position. Additionally, Appellant failed an acceptable test certification four times

within the required time and received a time extension of two months to complete the requirements. According to the description on page 8 of the written transcript, Appellant's failure to receive certification within the requisite time frame gives Caresource just cause in connection with the Appellant's work for discharging her. The Appellant received the same treatment as other employees, including discussions of study- strategy, timing of test scheduling, and reminders to schedule exams. Therefore, this shows the Appellant understood the policy as well as the average person.

The policy is used to ensure the employees are responsible for medical code interpretation and other activities related. The Appellee asserts the certification is a means of establishing and providing competency in the position. This shows that there is a rational basis for the policy. The certification is required of all employees who take up this position of member benefits system analyst. It is applied consistently as exposed by Appellants admission that other colleagues had the opportunity to study and take the required exams. This shows the policy instituted was applied to all individuals in this position.

Given the four factors have been met, the Commission's determination was not unlawful, unreasonable or against the manifest weight of evidence. The evidence weighs in favor of the Commission.

III. CONCLUSION

Accordingly, the *Notice of Appeal* filed by Appellant Latreceyuana F. Reece. is hereby DENIED and the Decision of the Ohio Unemployment Compensation Review Commission is hereby AFFIRMED.

This is a final appealable order, and there is not just cause for delay for purposes of Ohio Civ. R. 54. Therefore, the time for prosecution and appeal to the Second District Court of Appeals must be computed from the date upon which this decision and entry is filed.

The above captioned case is ordered terminated upon the records of the Common Pleas Court of Montgomery County, Ohio.

Appellee's costs are to be paid by Appellant.

SO ORDERED:

BARBARA P. GORMAN, JUDGE

TO THE CLERK OF COURTS:

Please serve the attorney for each party and each party not represented by counsel with Notice of Judgment and its date of entry upon the journal.

BARBARA P. GORMAN, JUDGE

Copies of this Order were sent today by ordinary mail to all persons listed below.

Phyllis Treat, Bailiff (937) 225-4392



General Division
Montgomery County Common Pleas Court
41 N. Perry Street, Dayton, Ohio 45422

Type: Decision
Case Number: 2012 CV 06308
Case Title: LATRECEYAUNA F REECE vs STATE OF OHIO OHIO
DEPARTMENT OF JOB AND FAMILY S

So Ordered

Barbara Peglerie Gorman