

FILED

IN THE COMMON PLEAS COURT, VINTON COUNTY, OHIO

JUL 10 3:44 PM
Lisa A. Billiland
VINTON COUNTY
CLERK OF COURTS

Jennifer Baisden

Appellant

Case No. 12CV0029

vs.

**Director, Ohio Department
of Job & Family Services, et al.**

Appellees

ENTRY

This is an appeal of the decisions of the Unemployment Compensation Review Commission mailed March 30, 2012 and May 17, 2012, finding that Appellant was discharged for just cause in connection with work. Appellant's Statement of Facts contained in her Brief is as follows:

From July 2010 until May 31, 2011, Ms. Baisden worked at General Mills without getting in any trouble (Tr. 17). The employer had not given Ms. Baisden any warnings or other discipline (Tr. 11). The only witness with first hand, personal, knowledge of what happened on May 31, 2011 who testified at the hearing was Ms. Baisden (Tr. 15).

It is undisputed that the production line was "down," out of production (Tr. 13, 19). General Mills' witness Ms. Newsome admitted that when the production line is shut down, the supervisor or line "lead" can permit workers to leave the floor (Tr. 13-14). On May 31, 2011 the workers had been allowed to leave the floor and "the whole line" went to the "smoke shack," a separate building "at the top of the hill away from the plant." (Tr. 19-21). The line lead was

there, with the others. Id. Ms. Baisden wanted to get something to eat. The cafeteria was closed. Ms. Baisden asked if anyone from her line wanted something from the store. Her line lead gave her money for food and cigarettes. Id. From her line lead's words and actions, Ms. Baisden thought she had permission to leave and called in her food orders (Tr. 22-25). Ms. Baisden left the grounds for six to ten minutes (Tr. 22). Later, Ray Davis, a General Mills supervisor, called Ms. Baisden to the office and asked her if she left the premises (Tr. 20). She admitted that she left the premises. She was suspended, she thought because she left when it wasn't her lunch break (Tr. 20). She did not understand at that time that her job was in jeopardy (Tr. 24).

Ms. Baisden had previously complained to Human Resources that she was being harassed by her line lead (Tr. 27-28). Ms. Newsome did not deny that (Tr. 37). The line lead was the individual who asked Ms. Baisden to bring her back cigarettes and then reported her leaving to her supervisor (Tr. 8).

Ms. Baisden filed a grievance through her union and there was further investigation (Tr. 25). She was frightened. In a later meeting, she was asked if she had clocked out and "first I said yes and then I said no." (Tr. 18-19).

Subsequently, Ms. Baisden was notified that she was terminated for leaving the premises and dishonesty (Tr. 30).

Upon review, the Court finds Appellant's statement of facts to be accurate. Appellee, Director's statement of facts is also accurate.

Discussion:

The issue before the Court is whether Appellant was discharged for just cause in connection with work (R.C. 4141.29 (D) (2)(a)). This issue is not whether the employer has a right to terminate under its company policy. Even if the employee was terminated pursuant to company policy (which is

not the issue before the Court), does it necessarily follow that there was just cause such that Appellant cannot receive unemployment benefits? The answer is no. In general, an employer may discharge an employee for any reason or no reason at all. The issue is whether the May 31, 2011 incident in and of itself is sufficient reason to deny benefits. If the employer has been reasonable in finding fault, the employee may be terminated. The crucial issue is not whether an employee has technically violated some company rule, but whether an employee, by her actions has demonstrated an unreasonable disregard for her employer's interests. A determination on the question of fault is based upon the facts of each case.

Under the facts of this case, the Court considers the following issues.

(1) Did the Appellant have a justifiable reason for leaving the work place for six to ten minutes to pick up food not only for herself and other co-workers but also her supervisor, the line lead (her line lead gave her money for food and cigarettes)? (2) Did the Appellant demonstrate an unreasonable disregard for her employer's best interests by leaving the work place for six to ten minutes to pick up food not only for herself and other co-workers but also her supervisor, the line lead (her line lead gave her money for food and cigarettes)? In this case, the production line was "down," out of production. When the production line is shut down, the supervisor or line lead can

permit workers to leave the floor. On May 31, 2011 the workers had been allowed to leave the floor and the whole line went to the smoke shack, a separate building at the top of the hill away from the plant. The line lead was there with other workers. Appellant wanted to get something to eat, and the cafeteria was closed. She asked if anyone from her line wanted something from the store. Her line lead, her supervisor, gave her money for food and cigarettes. Appellant left the grounds for six to ten minutes to pick-up the food and cigarettes. Curiously, the line lead then reported Appellant leaving to her supervisor.

As to issue number (1) Appellant was more than justified in believing she had permission to leave and pick-up the food and cigarettes. Stated otherwise, she was acting reasonably under the circumstances. As to issue number (2) Appellant did absolutely nothing that demonstrated an unreasonable disregard for her employer's best interests. There is nothing in the record which even suggests any adverse impact on the employer.

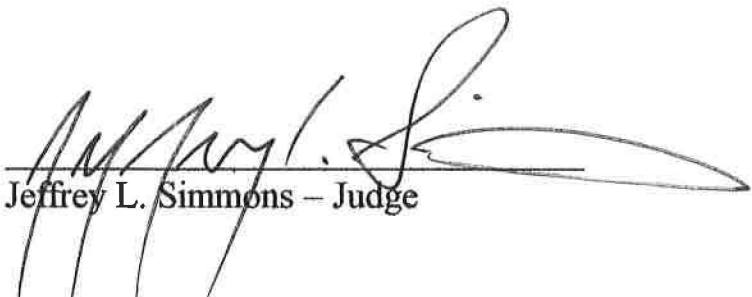
In summary, the decisions of the Unemployment Compensation Review Commission finding that Appellant was discharged for just cause in connection with work because her actions demonstrated an unreasonable disregard for the employer's interest are unreasonable and against the

manifest weight of the evidence. It is therefore Ordered, Adjudged and

Decreed:

1. The decisions of the Unemployment Compensation Review Commission mailed March 30, 2012 and May 17, 2012 are unreasonable and against the manifest weight of the evidence.
2. The decisions of the Unemployment Compensation Review Commission mailed March 30, 2012 and May 27, 2012 are hereby reversed.
3. Claimant Jennifer Baisden was not discharged for just cause in connection with work.

This is a Final and Appealable Order.



Jeffrey L. Simmons – Judge

Distribution:

1. Anne S. Rubin – Attorney for Appellant
2. Patria V. Hoskins – Assistant Attorney General
3. General Mills Operations