

IN THE COMMON PLEAS COURT
OF MIAMI COUNTY, OHIO
GENERAL DIVISION

MIAMI COUNTY
COMMON PLEAS COURT
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JAN A. HOFFINGER
CLERK OF COURTS

KALEB WARNER : CASE NO. 13-235
Plaintiff/Appellant, : JUDGE ROBERT J. LINDEMAN
VS. :
HOME BOX OFFICE, INC., et al. : JUDGMENT ENTRY
Defendant/Appellee. :

This matter came on for determination upon an appeal filed by Kaleb Warner from a decision of the Unemployment Compensation Review Commission, denying him unemployment compensation benefits because he had been discharged by his employer, on October 16, 2012, for just cause in connection with his work. Considered was a transcript of the proceedings involving Mr. Warner's claim, including a transcript of the testimony taken at the February 8, 2013 hearing on the matter. The Court also considered the briefs filed by the parties.

The Plaintiff/Appellant was an employee of Time Warner from September 20, 2010 to October 16, 2012. Initially, he was employed as a telephone customer service representative, and later moved to online customer service representative, which position he held until his last day of work (October 16, 2012).

The record supports the decision by the hearing officer that when the Appellant was hired, he was provided with a written "Work Rules Policy" (Tr. 31) which notified him that major work rules violations are of such a serious nature that discharge may result (Ex. 1(A)). Both "unprofessional behavior" and "poor service" constitute major work rules violations (Ex. 1(E)).

The company modified its standard regarding “poor service” violations in July, 2012, to adopt a zero tolerance approach to this type of a work rule violation. It was testified this was to combat a negative perception of Time Warner and that all employees under the customer care umbrella (which included the appellant as a customer service representative) received notice of the zero tolerance policy by email (Tr. 25).

The record further reflected that on September 13, 2012, the Appellant violated a major policy rule during a chat with a customer named Judy (Tr. 23); this also occurred on October 6, 2012 with a customer named Tom (Tr. 20-21) and a second time on October 6, 2012 with a customer named Brett (Tr. 21-22), all involving poor customer service.

After a review by Human Resources, the Appellant was discharged from his employment.

ANALYSIS

An employee is not eligible for unemployment compensation benefits if he is discharged for just cause in connection with his work. O.R.C. 4141.29(D)(2)(a).

A basis for the just cause can be established by the demonstration of a particular act which an ordinarily intelligent person would know better than to engage in, *Irvine v. Unemp. Comp. Bd. of Review* (1985), 19 Ohio St.3d 15, or it can be based upon proof that an employee violated a specific company policy, which was fair and fairly applied.

Fault on the part of the employee is a necessary ingredient to a just cause termination.

This Court’s scope of review in unemployment compensation review appeals is limited. The Court cannot make factual findings or determine witness credibility. *Williams v. Ohio Dept. of Job & Family Services*, 129 Ohio St.3d 332, 2011-Ohio-2897.

If the record supports the Unemployment Compensation Review Commission’s decision with competent, credible evidence, this Court must affirm the decision.

The record in this case included transcripts of the chats the Appellant had with customers Judy, Tom and Brett on the days in question. Upset customers are difficult to deal with, but the Appellant's interaction online supports the conclusion he violated company policy, he failed to treat the customers in a professional and courteous manner and his replies to the customers constituted poor service.

The Court further finds that the work rules in question and the company policy are fair. The Appellant acknowledged under oath that he knew a company representative should not be rude to customers (Tr. 41). Poor service when dealing with customers will lead to a loss of the customer base and resulting financial loss.

In addition, there was no support for the Appellant's argument that the termination policy was unfair or unfairly applied in this case. The original policy rules of which the Appellant acknowledged he received a copy, state that for a major policy violation, an employee could be discharged.

The hearing officer found fault on the part of the Appellant in connection with his work, which was supported by the record in this case.

The Court concludes that decision of the Unemployment Compensation Review Commission is supported by competent, credible evidence and is not unlawful, unreasonable or against the manifest weight of the evidence. Therefore the review commission's decision is affirmed.



ROBERT J. LINDEMAN, JUDGE

cc: Andrew H. Johnston
Robin A. Jarvis
Home Box Office, Inc.