

FILED
IN THE COURT OF COMMON PLEAS

13 OCT 30 PM 2: 08
BROWN COUNTY OHIO

JARETT A. YOUNG, APPELLANT. : CLERK OF COURTS CASE NO. 2013CVF -0492
: CLARK GRAY
: JUDGE SCOTT T.GUSWEILER
V. : DECISION AND ENTRY
TOTAL QUALITY LOGISTICS., ET AL. :
APPELLEES :

CERTIFIED COPY
COURT COMMON PLEAS
BROWN COUNTY, OHIO
CLERK: L. CLARK GRAY
DEPUTY: *[Signature]*

This cause having been heard on the Appeal of Jarrett A. Young from an Ohio Unemployment Compensation Review Commission decision denying unemployment compensation benefits to Appellant Jarrett A. Young.

The Claimant, Jarrett A. Young, filed for unemployment compensation. Appellee, Director, Ohio Department of Job and Family Services ("ODJFS") issued an initial Determination allowing the Claimant benefits after finding that the Employer had not established that he was discharged for just cause.

The Employer filed a timely appeal from the Determination. ODJFS issued a Redetermination which affirmed the initial Determination. The Employer filed an appeal from the Redetermination. ODJFS transferred jurisdiction of the appeal to the Review Commission. The Review commission's hearing officer conducted a hearing on May 22, 2013. The hearing officer, after taking testimony from a representative of Employer, Total Quality Logistics ("TQL") who was not employed by TQL at the time Appellant was terminated, reversed the Redetermination finding that the Claimant was fired for just cause in connection with work.

The Claimant filed a request for further review by the Review Commission The Review Commission disallowed the Claimants Request for Review. The Claimant then appealed

to this Court, seeking reversal of the decision denying unemployment compensation benefits.

DISCUSSION

The Court is required to observe the standard of review delineated in R.C. 4141.282(H) when considering appeals of decisions rendered by the Review Commission. That section states:

“If the court finds that the decision was unlawful, unreasonable, or against the manifest weight of the evidence, it shall reverse and vacate such decision or it may modify such decision and enter final judgment in accordance with such modification; otherwise, the court shall affirm such decision”

The Court has reviewed the entire transcript of proceedings submitted by the Director and the Review Commission. The Court finds it significant that the Appellants’ immediate supervisor did not testify as he was the person who interacted with the Appellant. The Court then must look to the documents prepared by the supervisor, Adam McKercher, which are part of the record. The record clearly shows that Appellant had not been meeting all of the revenue goals that were set for all employees in the same position as Appellant. He had met all goals except those dealing with production of revenue. Most significantly, Mr. McKercher notified Appellant in writing by e-mail on January 30, 2013 that he had specific goals set for him for the next two week period. The notice stated:

“Jarrett, you are expected to meet the following goals: 8-10 hours of outbound call time. Revenue: \$ 851 in Week 1 & \$938 in Week 2, 2 new customers. We will review your performance and failure to meet all metrics could result in job loss”

That notice obviously gave the Appellant two weeks to bring his performance up to the standards required by the employer. The two weeks would have expired on February 13, 2013. The employer chose to fire him for not performing on February 4, 2013.

Both the Employer and the Claimant agreed on the record (transcript p.3 &4) that the only issue to be determined was “was the claimant discharged by the employer for just

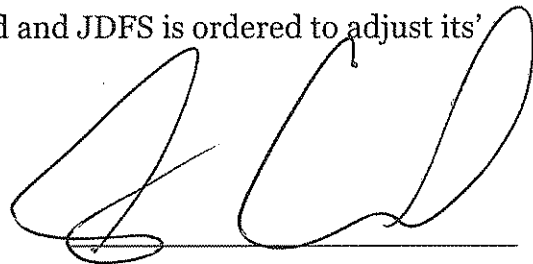
cause in connection with work?" The Court agrees that is the only issue that was to be decided by the Review Commission.

Because the Employer specifically gave the Appellant until February 13, 2013 to bring his performance up to the expected standards and then chose to fire him on February 4, 2013, The Court find that the Employer did not have just cause to discharge the Appellant on February 4, 2013.

The Court finds that the decision of the Review Commission was unreasonable, and against the manifest weight of the evidence.

CONCLUSION AND ORDER

The findings of the Review Commission are reversed. The Claimant/ Appellant is entitled to receive Unemployment Compensation for the period of time provided by Law The prior findings of an overpayment are reversed and JDFS is ordered to adjust its' records accordingly.

A handwritten signature in black ink, appearing to read 'S. T. Gusweiler', written over a horizontal line.

Judge Scott T Gusweiler

To the Clerk: Please send a copy of this Decision and Entry to: Jarett A. Young, 13076 Lake Grant Road, Bethel, Ohio 45106; Mr. Robin A Jarvis Asst. Attorney General 1600 Carew Tower 441 Vine Street Cincinnati, Ohio 45202; and Christopher M. Brown & Shawn E. Emerson Attorneys for Total Quality Logistics, 4289 Ivy Pointe Blvd, Cincinnati, Ohio 45245.

To the Clerk:

Serve upon all parties/attorneys of record notice of the within judgment, and the date of entry, pursuant to Civil Rule 58(B). Note the same upon the docket: