

FILED
IN COMMON PLEAS COURT

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DENISE K. JANUSKI
CLERK OF COURTS
GEAUGA COUNTY

**IN THE COURT OF COMMON PLEAS
GEAUGA COUNTY, OHIO**

ALAN GRYSHO : CASE NO. 12A001121
Appellant : JUDGE FORREST W. BURT
-vs- : **JUDGMENT**
OREILLY EQUIPMENT LLC, et :
al. : *A 18 -*
Appellees :

This matter came on for consideration upon the appeal of Alan Grysho, Appellant, from the decision of the Unemployment Review Commission (Commission) entered October, 10, 2012, wherein the Commission determined that Appellant Grysho was not entitled to unemployment compensation benefits.

Alan Grysho was an employee of Appellee O'Reilly Equipment, LLC, from October 28, 2011, to May 14, 2012, when his employment was terminated by Appellee. The Commission determined that Appellant was discharged with just cause; consequently, Mr. Grysho was denied unemployment compensation.

The issue before this Court is whether the decision of the Commission should be affirmed or whether the decision should be reversed, vacated, modified, or remanded to the Commission for further action because the decision was unlawful, unreasonable, or against the manifest weight of the evidence.

It is this Court's determination that the decision of the Unemployment Review Commission (Commission) entered October, 10, 2012, wherein the Commission determined that Appellant Grysho was not entitled to unemployment compensation benefits shall be affirmed.

Statement of Facts

1. Appellant was employed by Appellee O'Reilly Equipment, LLC, from October 28, 2011, until May 14, 2012.
2. On April 30, 2012, Appellant caused damage to company equipment. Appellant was told to complete a damage report, which he failed to do despite being repeatedly instructed to do so.
3. Appellant said he did not want to complete the report at home on his own time.
4. Appellant was scheduled to work on May 10, May 11, one-half day on May 12, and May 14, 2012. He failed to call off and/or report to work on those days.
5. On the afternoon of May 14, 2012, Appellant sent a text message to his employer asking if he should report to work on May 14, 2012. The employer advised him that he had been discharged.

Statement of Law

R.C. 4141.282(H) provides:

"The court shall hear the appeal on the certified record provided by the commission. 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."

The Court must base its decision on the record provided by the commission; the court may not make factual findings or determine the credibility of witnesses. *Brown-Brockmeyer Co. v. Roach* (1947), 148 Ohio St. 511; *Irvine v. Unemploy. Comp. Bd. Of Review* (1985), 19 Ohio St. 2d 15. The Court may not substitute its judgment for that of the Review Commission *Simon v. Lake-Geauga Printing Co.* (1982), 69 Ohio St. 2d 41. A decision supported by some competent, credible evidence may not be reversed as being against the manifest weight of the evidence. *Angelkovski v. Buckeye Potato Chips Co.* (1983), 11 Ohio App. 3d 159.

Conclusion

The Court has reviewed the transcript of the telephonic hearing conducted by the Commission's hearing officer. Not surprisingly, the testimony of Appellant is contradicted by the testimony of the employer. That being said, it is not up to this Court to determine which witness was the more credible.

The decision of the Commission is supported by credible, probative evidence.

Judgment

The decision of the Unemployment Review Commission entered October, 10, 2012, wherein the Commission determined that Appellant Alan Grysho was not entitled to unemployment compensation benefits is affirmed.

Appellant Alan Grysho shall pay the costs of these proceedings for which judgment is entered and execution may issue.


FORREST W. BURT, JUDGE

cc: Mark I. Wachter, Esq. ✓
D. Kevin O'Reilly, Esq. ✓
Laurence R. Snyder, Esq. ✓
Care Works Consultants, Inc. ✓

TO THE CLERK:

Serve upon all parties, not in default for failure to appear (per Civil Rule 5-(B)), notice of this Judgment and its date of journalization.