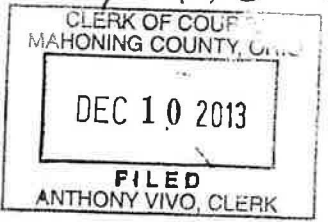


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IN THE COURT OF COMMON PLEAS
MAHONNG COUNTY, OHIO

ELLIOT T. RATLIFF
APPELLANT
VS.
STEEL FORMING, INC. ET AL
APPELLEES

CASE NO. 12 CV 3633
JUDGE R. SCOTT KRICHBAUM
JUDGMENT ENTRY

This matter was considered on the Magistrate's Decision filed November 8, 2013. After review pursuant to Civ. R. 53(D)(4), the Court finds that no written objections have been filed and that no error of law or other defect appears on the face of the Magistrate's Decision. Therefore, the Magistrate's Decision is hereby adopted and made the action, judgment and order of this Court.

This matter is before the Magistrate pursuant to a timely appeal from a decision of the Ohio Unemployment Compensation Review Commission pursuant to R.C. 4141.282. The Review Commission found that Appellant, Elliot T. Ratliff ("Appellant") was discharged from his employment with Appellee, Steel Forming, Inc. for just cause in connection with work performance thus denying his application for unemployment compensation benefits.

Appellant worked for Appellee, Steel Forming, Inc. as a laborer, most recently from November 18, 2010 to April 21, 2012. The record reflects that on April 21, 2012, Appellant was instructed by his supervisor, Anthony J. Thomas, to empty a trash dumpster on the employer's premises. Sometime thereafter, Mr. Thomas noticed that the dumpster hadn't been moved and he began looking for Appellant. Ultimately, Mr. Thomas located Appellant in the back of the locker room, asleep in a chair. When Mr. Thomas tapped Appellant on the leg, he startled and stood up. When Thomas asked Appellant what he was doing, Appellant replied he was "chillin' ". Mr. Thomas

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instructed the Appellant to clock out and go home. Appellant was not on his scheduled break at the time Mr. Thomas found him in the locker room.

The employer's established work rules prohibit sleeping on company property and provide that the offending employee will be terminated for a first offense without prior notice or warning. Appellant was discharged and his efforts to be returned to employment through the grievance procedure were unsuccessful.

A hearing was held before a hearing examiner for the Review Commission on August 22, 2012. Appellee, Steel Forming, Inc. appeared through its Human Resources Representative, Pam Mealy and Supervisor, Anthony J. Thomas, who testified that Appellant was discharged for sleeping on company property in direct violation of established work rules. Appellant appeared at the hearing with his union president and offered testimony that he was not sleeping, but simply resting due to medical conditions and prescriptions, of which the company was aware, which made him drowsy.

The Hearing Officer for the Review Commission determined that Appellant was discharged from his employment with Appellee, Steel Forming, Inc. for just cause. A reviewing Court is precluded from making factual findings or determining the credibility of witnesses and may not substitute its judgment for that of the Review Commission. After a review of the record herein, the Magistrate finds that the Review Commission's factual determinations are supported by competent, credible evidence and its decision is not unlawful, unreasonable or against the manifest weight of the evidence.

Therefore, based upon the foregoing, the Decision of the Ohio Unemployment Compensation Board of Review is hereby affirmed.

There being no just cause for delay, Judgment is entered as above specified.

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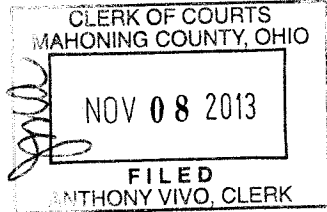

JUDGE R. SCOTT KRICHBAUM

THE CLERK SHALL SERVE NOTICE
OF THIS ORDER UPON ALL PARTIES
WITHIN THREE (3) DAYS PER CIVIL R.5

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11-8-13

IN THE COURT OF COMMON PLEAS
MAHONNG COUNTY, OHIO



ELLIOT T. RATLIFF
APPELLANT
VS.
STEEL FORMING, INC. ET AL
APPELLEES

CASE NO. 12 CV 3633
MAGISTRATE TIMOTHY G. WELSH
MAGISTRATE'S DECISION
FINDINGS OF FACT AND
CONCLUSIONS OF LAW

This matter is before the Magistrate pursuant to a timely appeal from a decision of the Ohio Unemployment Compensation Review Commission pursuant to R.C. 4141.282. The Review Commission found that Appellant, Elliot T. Ratliff ("Appellant") was discharged from his employment with Appellee, Steel Forming, Inc. for just cause in connection with work performance thus denying his application for unemployment compensation benefits.

Appellant worked for Appellee, Steel Forming, Inc. as a laborer, most recently from November 18, 2010 to April 21, 2012. The record reflects that on April 21, 2012, Appellant was instructed by his supervisor, Anthony J. Thomas, to empty a trash dumpster on the employer's premises. Sometime thereafter, Mr. Thomas noticed that the dumpster hadn't been moved and he began looking for Appellant. Ultimately, Mr. Thomas located Appellant in the back of the locker room, asleep in a chair. When Mr. Thomas tapped Appellant on the leg, he startled and stood up. When Thomas asked Appellant what he was doing, Appellant replied he was "chillin' ". Mr. Thomas instructed the Appellant to clock out and go home. Appellant was not on his scheduled break at the time Mr. Thomas found him in the locker room.

The employer's established work rules prohibit sleeping on company property and provide that the offending employee will be terminated for a first offense without prior

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notice or warning. Appellant was discharged and his efforts to be returned to employment through the grievance procedure were unsuccessful.

A hearing was held before a hearing examiner for the Review Commission on August 22, 2012. Appellee, Steel Forming, Inc. appeared through its Human Resources Representative, Pam Mealy and Supervisor, Anthony J. Thomas, who testified that Appellant was discharged for sleeping on company property in direct violation of established work rules. Appellant appeared at the hearing with his union president and offered testimony that he was not sleeping, but simply resting due to medical conditions and prescriptions, of which the company was aware, which made him drowsy.

The Hearing Officer for the Review Commission determined that Appellant was discharged from his employment with Appellee, Steel Forming, Inc. for just cause. A reviewing Court is precluded from making factual findings or determining the credibility of witnesses and may not substitute its judgment for that of the Review Commission. After a review of the record herein, the Magistrate finds that the Review Commission's factual determinations are supported by competent, credible evidence and its decision is not unlawful, unreasonable or against the manifest weight of the evidence.

Therefore, based upon the foregoing, the Decision of the Ohio Unemployment Compensation Board of Review is hereby affirmed.

This is an appealable Order and the Clerk of Court shall serve copies of this decision upon all counsel and unrepresented parties within three (3) days of the filing hereof.

11-7-13
DATE


MAGISTRATE TIMOTHY G. WELSH

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The parties shall have fourteen (14) days from the filing of this decision to file written objections with the Clerk of this Court. Any such objections shall be served upon all parties to this action and a copy must be provided to the Court. A party shall not assign as error on appeal on Court's adoption of any factual finding or legal conclusion of law under Civ. R. 53 (D)(3)(a)(ii), unless the party timely and specifically objects to the factual finding or legal conclusion as required by Civ. R. 53 (D)(3)(b). Any party may request the magistrate to provide written findings of fact and conclusions of law. In accordance with Civ. R. 52, this request must be made within seven (7) days from the date of filing of this decision.