

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

2014 JAN -7 AM 10:00  
JANA MOLLER  
CLERK OF COURTS

STEVEN D. MASSEY : CASE NO. 13-404  
Plaintiff-Appellant, : JUDGE ROBERT J. LINDEMAN  
VS. :  
P H GLATFELTER COMPANY INC., et al.: JUDGMENT ENTRY  
Defendant-Appellees. :

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This matter came on for determination upon the timely appeal of Appellant Steven D. Massey from a decision of the Unemployment Compensation Review Commission which affirmed the denial of his application for benefits.

Considered was the record of the Review Commission including a transcript of the hearing held before the hearing officer on May 9, 2013 and the briefs of the parties.

In support of his argument that the decision of the Unemployment Compensation Review Commission was unlawful, unreasonable or against the manifest weight of the evidence, the Appellant has propounded a number of arguments which the Court will look at individually and then collectively.

(1) When the Appellant was employed by Glatfelter, his job title was "third shift shipping coordinator." After he left his position was filled by overtime workers until it was re-posted as available with the title "third shift shipper with coordinating responsibilities and additional duties of wrapping and receiving."

The facts of the case support the conclusion that before the Appellant left the company, and due to a decrease in business, the Appellant took on additional tasks in addition to coordinating. The Appellant now argues that this was, in effect, an elimination of his position. Consequently, his voluntary leaving in January 2013 was actually preceded by the elimination of his position in the summer of 2012, thus he voluntarily quit with cause.

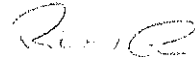
This is a very creative argument and certainly an employee can be eligible for unemployment compensation benefits if he quit with cause. Of course, the burden is on the Appellant to establish this occurred. *Silkert v. Ohio Dept. of Job and Family Services*, 184 Ohio App.3d. 78, 2009-Ohio-4399. The Appellant presented no evidence that the additional work he was doing caused him to voluntarily quit. In fact, the majority of the evidence, including the Appellant's own admissions, support the conclusion he voluntarily quit to start a new business and he had hoped to receive benefits since he was saving the company money. The evidence supports the conclusion the Appellant's job was not eliminated.

(2) The Defendant has also argued that he could not complete the job assignments that went with the expanded workload. Once again, the Court cannot find evidence of this in the record.

(3) The Appellant also argues the hearing officer relied on hearsay to reach his conclusions. But the testimony of the corporate officers regarding the Appellant's plans to retire before the issue of his claimed job elimination arose, were admitted by the Appellant himself (Tr. 12 and 13). Thus the hearsay is actually fact.

Whether the Court views the evidence piecemeal under the arguments or collectively as a whole, the evidence supports the conclusion that the Appellant's job was never eliminated, that he could have continued to work for Glatfelter if he had chosen to do so, but he voluntarily resigned to pursue other goals, and, as a result, he did not voluntarily quit with just cause.

The Court finds the decision of the Unemployment Compensation Review Commission is not unlawful, is not unreasonable or against the manifest weight of the evidence. Accordingly, the decision is affirmed.



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ROBERT J. LINDEMAN, JUDGE

cc: Andrew H. Johnston  
Robin A. Jarvis  
Jacklyn J. Ford/Michael C. Griffaton

Pursuant to Civil Rule 58(B), the Clerk of this Court is hereby directed to serve upon all parties not in default for failure to appear, notice of this judgment and the date of entry upon the journal of its filing.



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Judge