

IN THE COURT OF COMMON PLEAS OF SENECA COUNTY, OHIO

CITY OF TIFFIN

Case No. 13-CV-0295

Appellant,

-vs-

**DIRECTOR, OHIO DEPARTMENT
of JOB and FAMILY SERVICES, *et al.*,**

Appellees.

CIVIL

JUDGE MICHAEL P. KELBLEY

FILED
COMMON PLEAS COURT
SENECA COUNTY, OHIO
2014 JAN 17 P 30
MARY K. WARD
CLERK

JUDGMENT ENTRY and OPINION

This matter is decisional upon the filing of Appellant's brief. For the reasons set forth below it is **ORDER, ADJUDGED AND DECREED** that the benefits paid to Mr. Paul J. Dundore shall not be chargeable to the City of Tiffin but shall be charged to Appellee, Ohio Department of Job and Family Services' mutualized account. Any benefits previously paid to Mr. Paul J. Dundore shall be reimbursed to the City of Tiffin from the mutualized account.

Paul J. Dundore worked for the City of Tiffin as a sidewalk special-project administrator. The City of Tiffin discharged Mr. Dundore from his employment on February 8, 2012 for just cause. The just cause determination was universally affirmed throughout the unemployment compensation administrative process and eventually on appeal to this court in Paul J. Dundore v. Director, Ohio Department of Job and Family Services, et al., Case No. 12-CV-0304. As a result, Paul J. Dundore was not eligible to receive any unemployment compensation benefits and the City of Tiffin rightfully had no expense for benefits because of Mr. Dundore's discharge. However, in the current case, the City of Tiffin is now assessed \$9,490.00 in benefits to Mr. Dundore as a result of a qualifying separation from later employment. After Mr. Dundore was discharged by the City of Tiffin, he was employed by Calvert Elementary Catholic School and

Diocese of Toledo and later was separated due to lack of work. He applied for and received unemployment compensation benefits. The City of Tiffin does not question his right to receive benefits. The City of Tiffin was assessed because Mr. Dundore was employed by the City during his base period of employment and the City is a reimbursing employer under R.C. 4141.242. However, the assessment conflicts with this Court's earlier decision in Case No. 12-CV-0304 ruling that the City has no financial responsibility to Mr. Dundore as he was terminated for just cause.

The Ohio Revised Code does give a court the authority to correct situations where an employer who was not liable for benefits at the time of discharge could later be forced to pay benefits. Section 4141.24(D)(2) states as follows:

- (2) Notwithstanding (D)(1) of this section, charges to the account of any employer, including any reimbursing employer, shall be charged to the mutualized account if it finally is determined by a court on appeal that the employer's account is not chargeable for the benefits. (emphasis added).

In BKP Ambulance District v. Director, Ohio Department of Job and Family Services, et al., Hardin County Common Pleas Court Case No. 20121211 CVF, an employee of BKP ambulance District (BKP) quit her employment to begin employment with an another employer. The employee was later laid off from the second job due to lack of work and received unemployment benefits. BKP, a reimbursing employer under R.C. 4141.242, was charged in connection with the employee's benefits because it employed the employee during her base period. However, the Hardin County Common Pleas Court ordered that the benefits payable to the employee shall not be chargeable to BKP but shall be charged to the mutualized account.

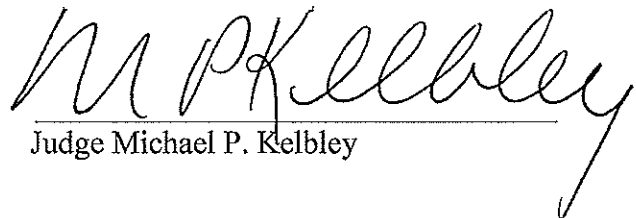
The current case presents a similar situation. Just like BKP, the City of Tiffin had no liability for its employee's separation; however, a later employment separation resulted in a charge for benefits.

For all of the above, it is **ORDERED** that the benefits payable to Mr. Dundore shall not be chargeable to Appellant, City of Tiffin, but shall be charged to Appellee, Ohio Department of Job and Family Service's mutualized account under R.C. 4141.24(D)(2) and such benefit payments previously paid to Mr. Dundore and also charged to the City of Tiffin shall be reimbursed to the City of Tiffin from the mutualized account.

IT IS SO ORDERED.


Judge Michael P. Kelbley

TO THE CLERK: Pursuant to Civil Rule 58(B), you are to serve notice of this judgment and its date of entry upon the journal to all parties not in default for failure to appear within three (3) days of the judgment's entry upon the journal , and note the service in the appearance docket.


Judge Michael P. Kelbley

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was mailed this 21 day of January, 2014;

Brent Howard, Esq., Director of Law, City of Tiffin, 84-88 S. Washington Street, Tiffin, Ohio 44883

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Mary K Ward by Janet
Clerk of Courts 