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TERESA A. DANKOVIC
CLERK OF COURTS
GUERNSEY CO., OHIO

IN THE COURT OF COMMON PLEAS

GUERNSEY COUNTY, OHIO

GENERAL TRIAL DIVISION

| | | |
|----------------------------------------|---|---------------------------------------------|
| HAVEN OF HOPE, INC., | : | CASE NO. 13-CV-171 |
| | : | |
| PLAINTIFF | : | VISITING JUDGE |
| | : | EDWARD EMMETT O'FARRELL |
| | : | SITTING BY ASSIGNMENT OF |
| | : | THE SUPREME COURT OF OHIO |
| | : | |
| VS | : | <u>JUDGMENT ENTRY-FURTHER NON-</u> |
| | : | <u>ORAL CONSIDERATION CONDUCTED</u> |
| | : | <u>ON 1/22/2014 PERTAINING TO 4/12/2013</u> |
| | : | <u>APPEAL OF HAVEN OF HOPE INC. UNDER</u> |
| | : | <u>R.C. 4141.282 OF UNEMPLOYMENT</u> |
| | : | <u>COMPENSATION REVIEW COMMISSION</u> |
| DIRECTOR, OHIO DEPARTMENT OF | : | <u>DECISION MAILED 3/13/2013-APPEAL</u> |
| JOB AND FAMILY SERVICES, et al, | : | <u>DENIED-ORDER TO CLERK TO CLOSE</u> |
| | : | <u>CASE FILE AND REMOVE FROM</u> |
| DEFENDANTS | : | <u>PENDING CASE DOCKET-ORDERS</u> |
| | : | <u>ENTERED</u> |
| | : | |

This matter was considered by Edward Emmett O'Farrell, Judge, Court of Common Pleas, Tuscarawas County, Ohio, General Trial Division, sitting in the Guernsey County, Ohio Court of Common Pleas, General Trial Division by assignment of the Supreme Court of Ohio on 1/22/2014 relative to the following:

- ◆ **Notice of Appeal** filed 4/12/2013 by Haven of Hope Inc. (Appellant) from the **Decision** of the Unemployment Compensation Review Commission (U.C.R.C.) disallowing **Request of Appellant for Review** mailed 3/13/2013

- ◆ 5/2/2013 **Certified Record** provided to Court by U.C.R.C.
- ◆ 7/10/2013 **Brief of Appellant**
- ◆ 8/2/2013 **Brief of Appellee**, Director, Ohio Department of Job and Family Services
- ◆ 8/21/2013 **Reply Brief** of Appellant

The Court

FINDS that the parties to this **Administrative Appeal** under **R.C. 4141.282** have correctly recited the procedural history of this matter prior to **Appeal** to this Court.

FINDS that the standard of review by a Common Pleas Court under **R.C. 4141.282(H)** is as follows:

The Court shall hear the Appeal upon receipt of the Certified Record provided by the Commission. If the Court finds that the Decision 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.

FINDS that a Common Pleas Court can only reverse the Commission's "just cause" determination if it is unlawful, unreasonable, or against the manifest weight of the evidence. (See *Tzangas, Plakas and Mannos v. Ohio Bur. of Emp. Servs.* (1995), 73 Ohio St.3d 694, 653 N.E. 2d 1207).

FINDS that a judgment will not be determined to be against the manifest weight of the evidence if it is supported by “some competent, credible evidence going to all the essential elements of the case.” (See *C.E. Morris Co., v. Foley Constr. Co.* (1978), 54 Ohio St.2d 279, 376 N.E. 2d 578).

FINDS that Common Pleas Courts in an Unemployment Compensation Review under **R.C. 4141.282** are not permitted to weigh evidence or assess credibility of witnesses (See **R.C. 4141.281 (C)(2)**).

FINDS that the Common Pleas Court does not have the authority to substitute its judgment for that of the Commission. (See *Simon v. Lake Geauga Printing Co.* (1982), 69 Ohio St.2d 41, 430 N.E.2d 468).

FINDS that the Common Pleas Court must only determine if the evidence in the record supports the Commission’s **Decision** (See *Tzangas Supra*).

FINDS that a reviewing (Common Pleas) Court cannot substitute its interpretation of the evidence for that of the Commission, because the resolution of purely factual questions is for the Commission and its Hearing Officer as the triers of the facts.

FINDS that the role of a reviewing (Common Pleas) Court, upon an Unemployment Compensation **Appeal** based upon factual grounds, is limited to determining whether the Commission’s **Decision** is supported by evidence in the record. A **Decision** of the Commission that is support by some

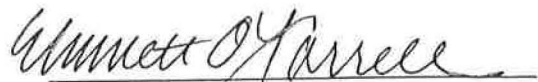
competent, credible evidence going to all the essential elements of the controversy cannot be reversed by a reviewing (Common Pleas) Court as being against the manifest weight of the evidence.

FINDS that the original **Decision** by Hearing Officer Robert Bush is supported by competent, credible evidence and should be affirmed by this Court as should the **Decision** of the U.C.R.C. disallowing the **Request** of Appellant **for Review** mailed 3/13/2013.

It is therefore

ORDERED that the **Decision** of U.C.R.C. Hearing Officer Robert Bush reversing the Director's Redetermination issued 11/23/2012 with respect to Appellee Stacie M. Frame's separation from employment with Haven of Hope Inc., is **affirmed** as is the **Decision** of the U.C.R.C. disallowing the **Request** of Appellant **for Review** mailed 3/13/2013. Consequently, the **Appeal** filed by Haven of Hope Inc., in this Court on 4/12/2013 is **Denied**.

ORDERED that the Clerk of Courts shall close this case file and remove it from the pending case docket. All Court costs are assessed against Haven of Hope Inc., for payment.



Edward Emmett O'Farrell
Visiting Judge

1/23/2014
Date

cc: Atty. Marie-Joelle Khouzam
Asst. Ohio Atty. General Paria V. Hoskins
Ms. Stacie M. Frame
Judge O'Farrell

EEO'F/csb