

OHIO ATTORNEY
GENERAL'S OFFICE
RECEIVED

FEB 27 2014

TOLEDO, OHIO

FILED CLERKS OFFICE

2014 FEB 24 AM 11:18

SHEILA LESTER
CRAWFORD COUNTY

IN THE COMMON PLEAS COURT,
CRAWFORD COUNTY, OHIO

WILLIAM A. YOST, :
Plaintiff-Appellant, : CASE NO. 12-CV-0355
vs. :
#36534 SANDUSKY WAL-MART, LLC, et al., :
Defendants-Appellee. : JUDGMENT ENTRY
: :
.....

This matter is before the Court upon the Notice of Appeal of Plaintiff-Appellant William A. Yost, hereafter known as Yost, appealing the Order of the Defendant-Appellee, Unemployment Compensation Review Commission, hereafter known as Commission, of the Hearing Officer Decision No. H-2012008743 dated May 1, 2012 and the Review Commission Decision No. C-2012008743 denying Yost's claim for Unemployment Compensation. The parties have filed briefs, a transcription of the hearing, and exhibits.

August 24, 2011, Mr. Yost had prostate cancer surgery. He was hired to work in as an unloader in the warehouse and store by Wal-Mart and was employed by them between December 13 and December 27, 2011, his date of separation. During his employment at Wal-Mart he complained of complications arising from the surgery. These consisted of depression, anxiety, stress, incontinence and insomnia. He testified that his inability to sleep was a combination of the anxiety he had from the surgery and trying to learn a new job. He called off sick two days and then called the store manager to advise her that he was unable to come in again. He did not offer to discuss the issues with her while on the phone at that time He thought this was something that should be discussed

in person. He did not go into the store and meet with her that day nor did he schedule a meeting with her to discuss with her in detail his medical issues. He did not ask to be reassigned to a different position because of his condition. He states he was told by the store manager he could quit or be fired. After leaving Wal-Mart he was able to find employment that was able to accommodate his physical health concerns.

Yost filed for unemployment compensation which was allowed for a benefit year commencing July 19, 2009. On March 15, 2012 a redetermination was issued which held that Yost quit work without just cause and his benefits were suspended until he worked six weeks of covered employment and earned at least \$1290.00. He filed an appeal on April 2, 2012 and on April 20, 2012 a telephone hearing was held before Hearing Officer Tonya Brady. Yost was represented by his counsel, Melissa S. LaRocco, Esq. No witnesses were called to testify, although they had been subpoenaed by Yost. The employer did not appear. Yost testified and presented evidence to the hearing officer which included medical statements. None of the statements were prior to the Yost quitting his employment at Wal-Mart.

Before it may arrive at a decision the Court must consider various factors as guidelines. The Court must first look to the applicable statutes for the case. In this instance the Court found that R. C. 4141.282 (H) and R.C. 4141.29 (D) (2) (a) apply.

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. R.C. 4141.282 (H).

In the matter before the Court, the Commission denied Yost's benefits on the grounds that he quit his job without just cause. R. C.4141.29 (D) (2) (a) states:

(D) Notwithstanding division (A) of this section, no individual may serve a waiting period or be paid benefits under the following conditions:

(2) For the duration of the individual's unemployment if the director finds that:


(a) The individual quit work without just cause or has been discharged for just cause in connection with the individual's work.

There is no dispute that Yost was employed by Wal-Mart and that he never informed anyone at Wal-Mart of his medical issues nor did he request reassignment to another job or duties which would have been more suited to his condition. It is also not disputed that Yost has since found an employer which is better able to work with him and accommodate his health needs.

As previously stated in R.C. 4141.282 (H), the Court in this appeal is limited to a finding that the decision of the commission was unlawful, unreasonable, or against the manifest weight of the evidence. If it cannot find any of the above, the decision must be affirmed.

Therefore, the Court finds the Commission's decision is supported by reliable, probative, and substantial evidence, and pursuant to relevant statutory law, that the decision shall be affirmed.

Therefore, it is hereby **ORDERED, ADJUDGED and DECREED**, that the decision of the Unemployment Compensation Review Commission is affirmed. Costs are assessed to Appellant.


Russell B. Wiseman, Judge

Copies of the above were sent by the Clerk of Courts this date of filing to:

MELISSA S. LaROCCO, Attorney at Law, Legal Aid of Western Ohio , Inc., 1243
Napoleon Street, Fremont, Ohio 43420

ERIC A. BAUM, Managing Attorney, Office of the Attorney General, Toledo Regional
Office, One Government Center, Suite 1340, Toledo, Ohio 43604