

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

STACY A. JONES,

Appellant,

VS.

CASE NO.: 14CVF-01-133

JUDGE: HOGAN

**DIRECTOR, OHIO DEPARTMENT
OF JOB & FAMILY SERVICES., ET AL.,**

Appellees.

DECISION AND ENTRY
GRANTING APPELLANT'S AMENDED MOTION FOR ENLARGEMENT OF
TIME TO FILE APPELLANT'S BRIEF AS FILED ON MARCH 21, 2014
AND
AFFIRMING THE UNEMPLOYMENT COMPENSATION REVIEW
COMMISSION'S DECISION OF DECEMBER 4, 2013 DISALLOWING
REQUEST FOR REVIEW

HOGAN, J.

This action comes before the Court upon an appeal from the Unemployment Compensation Review Commission's, (hereinafter referred to as Commission) decision to deny benefits to the Appellant. Appellant named the Director, Department of Job & Family Services, (hereinafter referred to as Appellee), the Commission and her former employer U Haul of Massachusetts (hereinafter referred to as U Haul).

On March 21, 2014 the Appellant filed an Amended Motion for Enlargement of Time. The pleading was unopposed. Therefore the Motion is **GRANTED**.

As set forth below, the Decision Disallowing Request for Review, as mailed on December 4, 2013 by the Commission is **AFFIRMED**.

STATEMENT OF THE CASE

This appeal involves the Appellant's request to overturn the Decision Disallowing Request for Review as issued by the Commission stating that the Appellant was

discharged because she quit her employment without just cause. Appellant has asserted that her resignation was forced and therefore, she is entitled to benefits.

STATEMENT OF THE FACTS

The Appellant was hired by U Haul in September of 1999. She was hired as a reservations manager. On June 22, 2013 the Appellant tendered a written resignation that provided U Haul with her two weeks' notice. U Haul released her from her employment on June 24, 2013 but it did pay her for the entire two weeks.

The Appellant had quit because she felt that her supervisor was "picking on her". Appellant felt that her prior requests for vacation time had not been handled fairly. Appellant also felt that U Haul had singled her out for criticism that other employees did not have to deal with.

Even though she had quit her job, the Appellant filed a request for benefits. On September 6, 2013 the Director issued a redetermination that disallowed the Appellant's request because it was determined that Appellant quit her job without just cause. The Appellant filed an administrative appeal on September 25, 2013. Two days later the matter was transferred to the Commission.

On October 22, 2013 a hearing was conducted by the assigned Hearing Officer. Appellant appeared with counsel and testified in support of her claim. At the hearing, the Appellant acknowledged that she had tendered a written resignation. Appellant informed the Hearing Officer of her perception of the type of supervision she was getting at U Haul. However, she admitted that the contacts she described between her and her supervisor were not actually discipline. (Hr. Tr. p. 6, l. 11 – 20) The Appellant also

confirmed that she was never given any written warnings nor was she ever threatened with discharge. (Hr. Tr. p. 9, l. 7 – 12)

At the hearing the Appellant informed the Hearing Officer that she had commenced an EEOC filing. The Appellant also testified concerning two of her prior vacation requests that she felt were treated less deferentially than similar requests from other employees. Appellant even complained about being left out of promotional photographs in January of 2013 as one of the reasons why she felt forced to resign in June of 2013. (Hr. Tr. p. 20, l. 3 – 21) Appellant also discussed an old complaint about an event in 2011. (Hr. Tr. p. 24, l. 1 – 13) Appellant went as far as to advance some prior incident in 2007 when she allegedly received anonymous calls where the caller said ‘nigger’ and hung up. (Hr. Tr. p. 35, l. 22 – 26; p. 36, l. 1 – 5)

After hearing the testimony and reviewing the evidence, the Hearing Officer rendered his decision on October 23, 2013. The Hearing Officer provided the following reasoning:¹

The claimant quit because her requested days off were not granted as requested, because she was not asked to be in promotional photographs, and because she received email notes from her supervisor regarding her work performance. The company has a right in the execution of its business to dictate when employees may take vacation time. In most of the instances provided by the claimant as examples of the company's poor treatment of her, the company made an attempt to accommodate at least part of her request. The claimant's quit because of this issue was not reasonable. In regards to the emails from her supervisor, the claimant was receiving notes on how she could improve her performance. However, constructive criticism of an employee's performance is the job of a supervisor and the claimant's objection of this was not reasonable. Finally, the company has the right to execute and cast whoever it wants in its promotional materials and the claimant's objection to the company's choice was not reasonable. The Hearing Officer finds the claimant quit U Haul Co. of Massachusetts, Inc. without just cause.

The Appellant objected and she filed her administrative appeal of the Hearing Officer's Decision on November 14, 2013.

¹ The darker text is a ‘copy image’ taken from the Decision of October 23, 2013 found at page 194 of the filed and scanned certified copy filed with this Court.

Appellant asserted that the Decision was in error. In her filing with the Commission, she again reiterated her prior testimony concerning her perception of her employment and her need to quit in June of 2013. The Appellant pointed to the administrative file and asserted that U Haul had failed to cooperate with the proceedings. However, the Appellant did not point to any discovery request that she made relevant to her appeal. Appellant claimed that the evidence showed that U Haul had treated her like she “was a nothing”. Appellant’s objections were rejected by the Commission when it rendered its Decision Disallowing Request for Review. Said Decision was mailed on December 4, 2013.

Appellant then filed her appeal to this Court on January 6, 2014. The Appellant asked for additional time to brief the issue. That request was granted. On March 31, 2014 the Appellant filed her Brief. The Appellee filed its Brief on April 14, 2014. As of the date of the drafting of this Decision, the Appellee had not filed a Reply nor had U Haul made an appearance in this case.² This matter is now ready for review.

STANDARD OF REVIEW

R.C. 4141.282(H) sets forth the standard of review that this Court must apply when considering appeals of decisions rendered by the Ohio Unemployment Review Commission. R.C. 4141.282(H) provides:

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 remand the matter to the commission. Otherwise, the court shall affirm the decision of the commission.

The Ohio Supreme Court stated that “[t]he board’s role as fact finder is intact; a reviewing court may reverse the board’s determination only if it is unlawful,

² There was no request for a Reply date in the Appellant’s Motion of March 21, 2014.

unreasonable, or against the manifest weight of the evidence.” *Tzangas, Plakas & Mannos v. Ohio Bur. Of Emp. Serv.* (1995), 73 Ohio St.3d 694,697. The Hearing Officer and the Review Commission are primarily responsible for the factual determinations and for the judging of the credibility of the witnesses. *Brown-Brockmeyer Co. v. Roach* (1947), 148 Ohio St. 511; *Angelkovski v. Buckeye Potato Chips* (1983), 11 Ohio App.3d 159,162. If an employer has been reasonable in finding fault on behalf of the employee, then the employer may terminate the employee with just cause. Fault on behalf of the employee remains an essential component of a just cause termination. See *Tzangas* at 699.

The civil standard for the ‘manifest weight’ of the evidence is as follows:

Judgments supported by some competent, credible evidence going to all the essential elements of the case will not be reversed by a reviewing court as being against the manifest weight of the evidence. See *Chicago Ornamental Iron Co. v. Rook* (1915), 93 Ohio St. 152 , 160; *Portage Markets Co. v. George* (1924), 111 Ohio St. 775 (paragraph one of the syllabus); and 3 Ohio Jurisprudence 2d 817, Appellate Review, Section 820, and the cases cited therein. *The C. E. Morris Co. v. Foley Construction Co.* (1978), 54 Ohio St.2d 279, at 280, 281.

This Court will defer to the Commission’s determination of purely factual issues when said issues address the credibility of the witnesses and the weight of the evidence.

Angelkovski v. Buckeye Potato Chips, Id., at 162. Please also note the following:

When reviewing a UCRC decision, "[e]very reasonable presumption must be made in favor of the [decision] and the findings of facts [of the Review Commission]." *Upton v. Rapid Mailing Servs.*, 9th Dist. No. 21714, 2004-Ohio-966, at ¶11, quoting *Karches v. Cincinnati* (1988), 38 Ohio St.3d 12, 19. In addition, "if the evidence is susceptible of more than one construction, we must give it that interpretation which is consistent with the verdict and judgment, most favorable to sustaining the trial court's verdict and judgment." *Upton* at ¶11, quoting *Karches*, supra. Because the resolution of factual questions falls under the UCRC's scope of review, *Ro-Mai Industries, Inc. v. Weinberg*, 176 Ohio App.3d 151, 2008-Ohio-301, at ¶8, this Court's "role is to determine whether the

decision of the UCRC is supported by evidence in the certified record." Id., citing Durgan, supra. If such support is found, then the reviewing court may not substitute its judgment for the judgment made by the UCRC. Id. "The fact that reasonable minds might reach different conclusions is not a basis for [] reversal." Irvine v. State Unemployment Comp. Bd. of Rev. (1985), 19 Ohio St.3d 15, 18. *Curtis v. Infocision Mgmt. Corp.*, et al., 2008-Ohio-6434 at ¶¶ 7 & 8.

In regard to the right to unemployment compensation, the following is applicable to the issues raised in this appeal:

The Act's existence is not to protect employees from themselves, but to protect them from economic forces over which they have no control. When an employee is at fault, the employee is directly responsible for his own predicament, and such fault separates the employee from the Act's intent and the Act's protection. *Scouler v. Ohio Dept. of Family Servs.*, 2007-Ohio-2650

From within this framework, this Court will render its decision.

ANALYSIS OF APPEAL

The Appellant decided to quit her job. Appellant's evidence indicated that she perceived she was not valued by U Haul. However, the sporadic negative history between her and her supervisor at U Haul did not create a situation where her voluntary decision to quit could be viewed as coercive.

The Appellee asserted that the evidence established that the Employer discharged the Appellant after the Appellant voluntarily quit. Just cause in connection with work pursuant to R.C. §4141.29(D)(2)(a) is defined as follows:

- (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 . . . has been discharged for just cause in connection with the individual's work . . .

The following is also instructive:

"Under R.C. 4141.29, a party is entitled to unemployment compensation benefits if he or she quits with just cause or is discharged without just cause." Upton at ¶13. In addition, "[t]he claimant has the burden of proving her entitlement to unemployment compensation benefits under the statutory provision[.]" Irvine, 19 Ohio St.3d at 17. Although "just cause" has not been clearly defined, "[t]raditionally, just cause, in the statutory sense, is that which, to an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act." Id., quoting Peyton v. Sun T.V. (1975), 44 Ohio App.2d 10, 12. Finally, "[t]he determination of whether an employer had just cause to terminate an employee is a factual question primarily within the province of UCRC, and one which reviewing courts are precluded from inquiring into during these administrative appeals." Summit Cty. Fiscal Office v. Wood, 9th Dist. No. 23982, 2008-Ohio-2159, at ¶9. *Curtis v. Infocision Mgmt. Corp.*, et al., 2008-Ohio-6434 at ¶9.

The transcript from the Hearing supports the Appellee's argument that the Appellant voluntarily quit U Haul. Appellant was not coerced into quitting.

From this Court's review of the certified record it is clear that the Commission's decision is supported by the facts and is lawful. Therefore, this Court Affirms the Commission's decision.

DECISION

Having applied the law to the facts, having reviewed the arguments and evidence at the administrative level, having, when appropriate, given due deference to the Commission, this Court finds that the Commission's Decision Disallowing Request for Review is lawful, reasonable and not against the manifest weight of the evidence. Therefore, the Decision of December 4, 2013 is **AFFIRMED**.

THIS IS A FINAL APPEALABLE ORDER.

Daniel Hogan, Judge

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Franklin County Court of Common Pleas

Date: 04-23-2014
Case Title: STACY A JONES -VS- OHIO STATE DEPARTMENT JOB &
FAMILY SERVI ET AL
Case Number: 14CV000133
Type: DECISION/ENTRY

It Is So Ordered.

A handwritten signature in black ink, appearing to read "D. T. Hogan", is written over a circular, textured stamp. The signature is cursive and somewhat stylized.

/s/ Judge Daniel T. Hogan

Court Disposition

Case Number: 14CV000133

Case Style: STACY A JONES -VS- OHIO STATE DEPARTMENT
JOB & FAMILY SERVI ET AL

Case Terminated: 10 - Magistrate

Final Appealable Order: Yes

Motion Tie Off Information:

1. Motion CMS Document Id: 14CV0001332014-03-2099980000
Document Title: 03-20-2014-MOTION TO EXTEND TIME
Disposition: MOTION IS MOOT
2. Motion CMS Document Id: 14CV0001332014-03-2199980000
Document Title: 03-21-2014-MOTION
Disposition: MOTION GRANTED