



84138521

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

CRAIG D. SPEIGHTS
Plaintiff

SHAKER PARK HOUSING, LLC, ET AL
Defendant

Case No: CV-13-808761

Judge: MICHAEL E JACKSON

JOURNAL ENTRY

96 DISP.OTHER - FINAL

THE COURT HAS REVIEWED THE BRIEFS FILED BY THE PARTIES, AS WELL AS THE LAW APPLICABLE TO THIS ADMINISTRATIVE APPEAL. FOR THE REASONS THAT FOLLOW, THE DECISION OF THE UNEMPLOYMENT COMPENSATION REVIEW COMMISSION ("UCRC") IS REVERSED AND REMANDED.

APPELLANT APPEALED UCRC'S DECISION TO DENY HIM A HEARING ON THE MERITS OF HIS ATTEMPTED APPEAL OF THE HEARING OFFICER'S DECISION DENYING HIS CLAIM FOR UNEMPLOYMENT COMPENSATION, ALSO KNOWN AS A REQUEST FOR A "DIRECTOR'S REDETERMINATION." THE UCRC'S DENIAL WAS BASED UPON THE FACT THAT APPELLANT'S APPEAL LETTER WAS POSTMARKED SIX DAYS LATE. HOWEVER, AT THE HEARING BELOW, THE UCRC PERMITTED APPELLANT TO SUBMIT "CERTIFIED" MEDICAL EVIDENCE THAT EXPLAINED HIS LATE FILING OF THE APPEAL, WITHIN TWO DAYS OF THE HEARING. APPELLANT DID SO BY SUBMITTING A LETTER FROM DR. PATEL THAT CONFIRMED THAT DURING THE APPEAL PERIOD IN QUESTION HE WAS UNDER THE INFLUENCE OF LYRICA, FOR TREATMENT OF BACK PAIN, WHICH CAN AFFECT A PATIENT'S MEMORY AND ABILITY TO THINK CLEARLY. NEVERTHELESS, THE UCRC REJECTED DR. PATEL'S LETTER AS UNSWORN HEARSAY, SINCE IT WAS NOT CERTIFIED, AND FOUND THE LETTER UNPERSUASIVE AS JUST CAUSE FOR THE LATE FILING.

THE COURT FINDS THAT THE UCRC'S DECISION WAS UNREASONABLE, WHICH WARRANTS REVERSAL. R.C. 4121.282(H). EVEN IF THERE WAS SOMEHOW DOUBT AS TO THE AUTHENTICITY OR WEIGHT OF DR. PATEL'S LETTER, TWO DAYS WAS NOT A REASONABLE AMOUNT OF TIME TO AFFORD APPELLANT THE OPPORTUNITY TO PRODUCE ADDITIONAL "CERTIFIED" MEDICAL EVIDENCE. NOR IS THERE ANY INDICATION IN THE RECORD THAT THE APPELLANT WAS TOLD WHAT CONSTITUTES "CERTIFIED" MEDICAL EVIDENCE. THE LETTER PRODUCED BY THE APPELLANT WAS ON HIS PHYSICIAN'S LETTERHEAD AND SIGNED BY THAT PHYSICIAN. THAT LETTER ALSO PROVIDES A PLAUSIBLE MEDICAL REASON WHY THE APPELLANT DID NOT TIMELY FILE HIS APPEAL.

WHILE THIS LETTER DOES NOT USE THE TERM "CERTIFIED", THE APPELLANT SUBMITTED THE BEST EVIDENCE HE HAD, A SIGNED LETTER FROM HIS DOCTOR, ON THE DOCTOR'S LETTERHEAD. UNDER THESE CIRCUMSTANCES THE SUBMISSION BY THE APPELLANT IS REASONABLE WITH ONLY TWO DAYS' NOTICE. MOREOVER, "HEARING OFFICERS ARE NOT BOUND BY COMMON LAW OR STATUTORY RULES OF EVIDENCE OF FORMAL RULES OF PROCEDURE." R.C. 4141.281(C)(2), AND IN THIS SITUATION, INSTRUCTION SHOULD OF BEEN GIVEN TO THE APPELLANT REGARDING WHAT WAS EXPECTED OF HIM AND HE SHOULD OF BEEN GIVEN A REASONABLE AMOUNT OF TIME TO PRESENT SUCH EVIDENCE IN THE MANNER EXPECTED BY THE HEARING OFFICER. THE COMBINATION OF NOT PROVIDING ADEQUATE INFORMATION AS TO WHAT CONSTITUTES CERTIFIED AND BY REQUIRING THE APPELLANT TO ASSEMBLE HIS INFORMATION IN ONLY TWO DAYS IS ARBITRARY AND UNREASONABLE.

FOR THE FOREGOING REASONS, THE DECISION OF THE UCRC APPEALED HEREIN IS REVERSED AND REMANDED. THE UCRC SHALL ALLOW APPELLANT THE OPPORTUNITY TO HAVE A HEARING ON HIS PREVIOUSLY

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ATTEMPTED APPEAL, FOR A DIRECTOR'S REDETERMINATION, ON HIS UNEMPLOYMENT COMPENSATION CLAIM.
COURT COST ASSESSED TO THE DEFENDANT(S).

Judge Signature

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