

ENTER
 JUN 09 2014
 CHARLES J. KUBICKI, Judge



**COURT OF COMMON PLEAS
 HAMILTON COUNTY, OHIO**

TRIHEALTH G, LLC.	:	
	:	Case No.: A1202668
Plaintiff,	:	
vs.	:	Judge Charles J. Kubicki, Jr.
ALLISON M. DILL, et al.,	:	ENTRY DENYING
	:	DEFENDANT'S OBJECTION TO
Defendants.	:	THE MAGISTRATE'S DECISION
	:	AND AFFIRMING THE
	:	MAGISTRATE'S DECISION

This cause came before this Court pursuant to Defendant Ohio Department of Job and Family Services' Objection to Magistrate's Decision, which was not opposed.

Upon consideration thereof and the other pleadings in the case, the Court finds Defendant's Objection to be not well taken and the same is hereby DENIED.

The Court notes that the decision of the Commission was contrary to its own findings, and that unemployment benefits are not appropriate when an employee is terminated for just cause. In this case, just cause was established when Defendant Dill accessed her husband's medical records without permission and was terminated based on her actions. Here, either the "arbitrary standard" or the "strict standard" would have allowed the Magistrate to ultimately reach the same, correct decision. The Magistrate's decision that Defendant Dill was not entitled to unemployment benefits was proper. Accordingly, the Magistrate's decision is hereby AFFIRMED.

IT IS SO ORDERED.

Charles J. Kubicki, Jr., Judge

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COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO



TriHealth G, LLC

Case No. A1202668

Appellant,

Magistrate Judge Kothman

v.

Allison M. Dill, et al.

Appellees.

MAGISTRATE'S DECISION

RENDERED THIS 10th DAY OF SEPTEMBER, 2012.

This administrative appeal was filed by Appellant TriHealth G, LLC ("TriHealth") under Ohio Revised Code § 4141.281 on April 6, 2012. Appellant TriHealth appeals the decision of the Unemployment Compensation Review Commission ("Commission"), which approved unemployment benefits for Appellee Allison M. Dill. Following the timely filing of briefs by all parties, Appellant TriHealth and counsel for Appellee Ohio Department of Job and Family Services ("ODJFS") presented oral arguments on August 28, 2012 on the merits of the appeal.

BACKGROUND

Appellee Dill filed an Application for Determination of Benefit Rights for the benefit year beginning October 30, 2011. On December 13, 2011, the Director for the ODJFS affirmed that Dill was discharged from employment with TriHealth for just cause in connection with work and issued a Redetermination decision disallowing Dill's application. On December 22, 2011, Dill filed an appeal from the Redetermination. On December 22, 2011, the ODJFS Office of Unemployment Compensation transferred jurisdiction to the Commission under Ohio Revised Code § 4141.281. On January 18, 2012 and February 3, 2012, the Commission held telephonic

hearings on the case. On February 15, 2012, the Commission reversed the ODJFS Director's decision and granted Dill unemployment benefits.

DISCUSSION

Pursuant to R.C. § 4141.29(D)(2)(a), an individual who has been discharged for just cause in connection with the individual's work is not eligible or qualified for unemployment benefits. R.C. Chapter 4141 does not define "just cause." Case law has defined "just cause" as "that which, to an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act." *Irvine v. Unemployment Comp. Bd. of Rev.*, 19 Ohio St.3d 15, 17 (1985). The claimant has the burden of proving her entitlement to unemployment compensation benefits. *Id.*

A reviewing court may reverse the decision of the Commission with respect to unemployment benefits if it is "unlawful, unreasonable, or against the manifest weight of the evidence." R.C. § 4141.282(H); *see also Tzangas, Plakas & Mannos v. Ohio Bur. of Emp. Servs.*, 73 Ohio St.3d 694, 696 (1995). While this Court is not permitted to make factual findings or to determine the credibility of witnesses, it has the duty to determine whether the Commission's decision is supported by the evidence in the record. *Irvine, supra*, 19 Ohio St. 3d at 18.

In its Decision, the Commission found that TriHealth has a company policy, consistent with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), which states that employees are not permitted to access personal health information for personal reasons without prior authorization. The Commission determined that Dill acknowledged receipt of the policy. The Commission also found that a violation of the company policy is considered a "major violation" and that the discipline for violating the policy is typically termination.

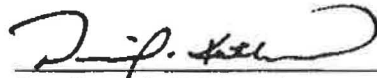
The Commission then determined that Dill accessed her husband's personal health information on multiple occasions and that TriHealth's records indicated that Dill's husband did

not give anyone prior written authorization to access his medical records. The Commission found that Dill “violated a known and reasonable company policy.” The Commission also explicitly found that Dill’s actions were “improper.”

Despite these factual findings, the Commission found Dill was terminated without just cause, reversed the ODJFS Director’s decision and granted Dill unemployment benefits. Because the Commission’s decision in this case does not reasonably flow from its own factual findings and credibility determinations, the Court finds that the Commission’s decision is arbitrary. Accordingly, the Court finds that Appellee Dill was discharged for just cause and that the Commission’s decision was unlawful, unreasonable or against the manifest weight of the evidence in the record.

DECISION

Wherefore, the Court, being fully advised on the merits, hereby grants the Appellant’s appeal and **REVERSES** the Commission’s decision.



DAVID M. KOTHMAN
MAGISTRATE
COURT OF COMMON PLEAS

NOTICE

Objections to the Magistrate's Decision must be filed within fourteen days of the filing date of the Magistrate's Decision. A party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ. R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ. R. 53(D)(3)(b).

PRAECIPE

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT COPIES OF THE FOREGOING DECISION HAVE BEEN SENT BY ORDINARY MAIL TO ALL PARTIES OR THEIR ATTORNEYS AS PROVIDED ABOVE.

Date: 9/11 Deputy Clerk: 