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COURT OF COMMON PLEAS
 ENTER
 HON. NADINE ALLEN
 THE CLERK SHALL SERVE NOTICE
 TO PARTIES PURSUANT TO CIVIL
 RULE 58 WHICH SHALL BE TAXED
 AS COSTS HEREIN.

IN THE COURT OF COMMON PLEAS
 HAMILTON COUNTY, OHIO

ENTERED
 JUN 17 2014

DAVID KORENDEL,

Appellant,

vs.

ESG ENTITIES INC., et al.,

Appellees.

Case No. A 1308043

Judge Nadine Allen

Magistrate Michael Bachman

ENTRY ADOPTING THE
MAGISTRATE'S DECISION

The Magistrate's decision dismissing this case was filed on May 21, 2014. The objection period has expired and no objections to the decision were filed nor were there any extensions granted. WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the Magistrate's Decision is hereby affirmed.

Costs to the Appellant. This is the final appealable order. There is no just reason for delay.

ENTER

JUN 17 2014

MAGISTRATE

JUN 09 2014

HAS SEEN

~~NADINE L. ALLEN, JUDGE~~
 JUDGE NADINE ALLEN

FOR COURT USE ONLY

S. C. _____
 Line #: _____

An evidentiary hearing was held before a hearing officer for the Review Commission. The Hearing Officer reversed the Redetermination, and denied the Appellant's claim for unemployment benefits finding that the Appellant was fired for just cause due to poor job performance.¹ The Appellant requested further review of his claim by the Review Commission, but the Review Commission disallowed the Appellant's request. The Appellant appealed to this Court, seeking reversal of the Review Commission's adverse decision. The case was referred to the Magistrate.

STANDARD OF REVIEW

This Court shall hear the appeal upon receipt of the certified record provided by the Review Commission. If the Court finds that the Review Commission's decision was "unlawful, unreasonable, or against the manifest weight of the evidence", it shall reverse, vacate, or modify the decision, or remand the issue to the Review Commission. R.C. 4141.282(H); *Williams v. Ohio Dep't of Job & Family Serv.*, 129 Ohio St.3d 332, 2011-Ohio-2897, 951 N.E.2d 1031. Otherwise, the court shall affirm the Review Commission's decision. *Id.* The reviewing court must follow this same standard in assessing just cause determinations. *Irvine v. Unemp. Comp. Bd. Of Rev.*, 19 Ohio St.3d 15, 17-18, 482 N.E.2d 587 (1985). The determination of factual questions and the evaluation of witnesses' credibility is the responsibility of the Hearing Officer and Review Commission, and accordingly, parties on appeal are not entitled to a trial de novo in this Court. *Tzangas, Plakas, and Mannos v. Ohio Bur. of Emp. Serv.*, 73 Ohio St.3d 694, 697, 653 N.E.2d 1207 (1995).

DISCUSSION

The Appellant was an operation manager for ESG. The hearing officer found as

¹ Hearing Officer's Decision p. 4.

Findings of Fact that the Appellant was advised on several occasions of deficiencies in his work performance by David Flanagan, his manager.² The Appellant neglected his duties after being warned. The warnings related to Appellant's failure to issue past due letters, submit schedules, supervise field operations and submit reports.³ The hearing officer ruled that the Appellant was discharged for just cause due to these deficiencies.

The Court has reviewed the certified record provided by the Review Commission and the briefs of ODJFS and the Appellant. The Appellant contends that he was discharged without just cause. Appellant maintains that he was a good employee and had good reviews. The Appellant contends many of the facts presented by David Flannigan at the hearing were not true. However, the Appellant did not attend the hearing to provide sworn testimony to rebut those facts nor did he request to show good cause as to why he could not attend the hearing.

ODJFS contends that the hearing officer's decision is supported by the certified record. ODJFS argues that the Appellant was discharged for just cause as the Appellant's actions demonstrated an unreasonable disregard for the employer's best interest. ODJFS, relying on *Williams v. Ohio Dep't of Job & Family Serv.*, 129 Ohio St.3d 332, 2011-Ohio-2897, 951 N.E.2d 1031, ¶ 24, argues that the Appellant is at fault for his discharge and therefore should not be entitled to unemployment benefits.

After reviewing the entire record and arguments of the parties, the court cannot find that the facts as expressed by the hearing officer are not supported by the record. The Hearing Officer held that the Appellant was discharged for just cause. The Court agrees with the Hearing Officer's conclusion.

² Hearing Officer's Decision p. 3.

³ Hearing Officer's Decision p. 4.

DECISION

The decision of the Review Commission denying the Appellant unemployment compensation benefits is hereby AFFIRMED. The Court cannot find that the hearing officer's decision is unlawful, unreasonable or against the manifest weight of the evidence.



**MICHAEL L. BACHMAN
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 of fact or legal conclusion, whether or not specifically designated as a finding of fact or conclusion 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).

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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: 5/22

Deputy Clerk: 