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IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

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CUYAHOGA COUNTY

CALLIE B. PADGETT
Plaintiff

CLERAC, LLC, ET AL
Defendant

Case No: CV-13-814149

Judge: STUART A FRIEDMAN

JOURNAL ENTRY

96 DISP.OTHER - FINAL

THE DECISION OF THE OHIO UNEMPLOYMENT COMPENSATION REVIEW COMMISSION IS AFFIRMED. OSJ. COURT COST ASSESSED TO THE PLAINTIFF(S).

Judge Signature X Date

- 96
08/22/2014

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

CALLIE B. PADGETT	)	**CASE NO. 814149**
	)	
Appellant,	)	**MEMORANDUM OF OPINION**
	)	**AND ORDER**
v.	)	
	)	
DIRECTOR, OHIO DEPARTMENT OF JOB AND FAMILY SERVICES	)	
	)	
and	)	
	)	
CLERAC, L.L.C.	)	
	)	
Appellees.	)	

FRIEDMAN, J.:

{¶1} In the case at bar, Callie B. Padgett ("appellant") appeals the Ohio Unemployment Compensation Review Commission's decision that appellant quit her employment at Clerac, LLC without just cause pursuant to Ohio Revised Code § 4141.29(D)(2)(a) and thus was not entitled to unemployment compensation.

STATEMENT OF FACTS

{¶2} Appellant was employed as a greeter for Cleveland Enterprise Rent-a-Car, LLC ("Clerac" or "the employer") from September 4, 2012 to May 29, 2013. During the last few days of her employment, transportation problems prevented appellant from reporting to her scheduled work shift (3:30 p.m. to midnight). Appellant had neither a working car nor access to public transportation. As a result, appellant notified her supervisor that she would be "off work." Her supervisor suggested that appellant draft a letter of resignation and return her uniforms; however, she did not terminate appellant. Upon returning her uniforms, however, appellant failed to inform her superiors as to whether she could

continue to work her scheduled shift. Moreover, appellant neither submitted a letter of resignation nor explicitly declared that she was resigning. Her last day at work was May 29, 2013; the employer consequently filled her position. (State's Ex. 1, July 30, 2013.)

{¶3} Following her departure from Clerac, appellant filed a claim for unemployment benefits with appellee Ohio Department of Job and Family Services. On June 21, 2013, appellee issued a determination denying appellant's claim on the grounds that she quit her employment without just cause pursuant to R.C. § 4141.29(D)(2)(a). On July 3, 2013, appellee subsequently issued a redetermination that affirmed the original determination.

{¶4} Appellant appealed the redetermination, and the case was transferred to the Unemployment Compensation Review Commission (the "Commission"). A telephone hearing was held on July 30, 2013. Present were Ms. Padgett, *pro se*, and counsel and a witness for Clerac. Hearing Officer Donald McElwee affirmed appellee's redetermination. The Commission subsequently denied Appellant's request for an appeal. On September 20, 2013, appellant filed her notice of appeal in the Cuyahoga County Court of Common Pleas.

JUST CAUSE

{¶5} Pursuant to R.C. § 4141.29(D)(2)(a), "no individual may be paid benefits . . . if . . . the individual quit work without just cause or has been discharged for just cause in connection with the individual's work." "Just cause" is defined as "that which, to an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act." *Irvine v. Unemp. Bd.*, 19 Ohio St. 3d 15 (1985), *17. Each determination, moreover, must be made upon the factual circumstances of each case. *Williams v. ODJFS*, 129 Ohio

St. 3d 332, 2011-Ohio-2897, ¶ 22. Furthermore, the Eighth Appellate District in *Smola v. Dir., Ohio Dept. of Job & Family Servs.* recently held that:

> ...this court has no authority to reverse a final decision of the commission under a manifest-weight-of-the-evidence standard if there is some competent evidence in the record to support it. Id. In other words, a reviewing court may not reverse the commission's decision simply because reasonable minds might reach different conclusions.

Smola v. Dir., Ohio Dept. of Job & Family Servs., 2014-Ohio-1244, ¶ 8.

DISCUSSION

{¶6} Appellant argues that, when the employer accepted her payment for thirty-two consecutive fourteen-day vehicle rental contracts under the "Employee and Family Discount Program" (the "Program"), the employer assumed appellant's responsibility of providing transportation to and from work and thus was estopped from discontinuing her use of the Program. (Appellant's brief, p. 3.) She further alleges that the employer engaged in a conspiracy to lie to the commission during the July 30, 2013 evidentiary hearing. Appellant concludes that she was forced to quit her job *with* just cause because the employer terminated her usage of the Program. Id.

{¶7} In her reply brief, however, appellant nullifies her own estoppel claim by highlighting the Program's terms that read, "Maximum rental length is 14 days; **this program is not designed to support the long-term transportation needs for employees.**" (emphasis added) (Appellant's Ex., Employee and Family Discount Program, misc. attachment.) These terms not only clearly show that Clerac did *not* assume appellant's responsibility to provide transportation to and from work, but also that the Program was *not* designed to support an employee's long-term transportation needs. Id. From the evidence before it, the Commission found that "[Appellant] was

aware at the time she accepted the position that she was required to provide her own transportation to and from work." (State's Ex. 1, July 30, 2013.) Moreover, pursuant to R.C. 4141.29(D)(2)(a), transportation problems do not constitute "just cause" to quit employment.

{¶8} In her reply, appellant next asks, "What if NEW evidence surfaced during the appeal process and was not available during the certified record? Does the appellate court consider NEW evidence [to be] manifest weight?" (Reply, p. 2.) According to R.C. 4141.282(H), this court's review is limited to the evidence in the certified record and cannot consider new evidence absent from the record. Accordingly, the court finds that the absence of appellant's promissory estoppel claim from the record renders it meritless.

{¶9} Lastly, appellant questions how she, a *pro se* litigant, can be held to the same standard as litigants who are represented by counsel. (Reply, p. 4.)

{¶10} The Ohio Supreme Court has held that "[i]t is well established that *pro se* litigants are presumed to have knowledge of the law and legal procedures and that they are held to the same standard as litigants who are represented by counsel." *Fuller v. Mengel*, 100 Ohio St.3d 352, 354 (2003), citing *Sabouri v. Ohio Dept. of Job & Family Servs.* (2001), 145 Ohio App. 3d 651, 654.Thus, this Court must presume that appellant has knowledge of the law and legal procedures, and must hold her to the same standard as litigants who are represented by counsel.

CONCLUSION

{¶11} The court finds that the facts establish that: (1) appellant quit her employment at Clerac, LLC after transportation problems prevented her from reporting to work, (2) appellant was aware that she was responsible for providing transportation to and from

work, (3) during a phone conversation she failed to inform her superiors as to whether she could continue working, and (4) appellant subsequently returned her uniforms and abandoned her shift after May 29, 2013. Thus, the employer's conclusion that appellant quit her position was reasonable.

{¶12} Upon review of the parties' briefs and the certified record, the court finds that appellant terminated her employment with Clerac without just cause pursuant to R.C. 4141.29(D)(2)(a). As the Commission's decision is clearly reasonable, lawful, and in accordance with the manifest weight of the evidence, the Commission's decision is affirmed.

IT IS SO ORDERED.

JUDGE STUART A. FRIEDMAN

DATED: 22 August 2014

SERVICE

Copies of the foregoing Memorandum of Opinion and Order were sent via U.S. mail to all counsel of record this date: August 22, 2014

JUDGE STUART A. FRIEDMAN