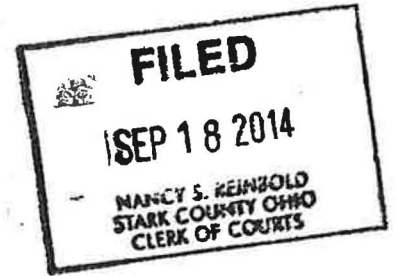


IN THE COURT OF COMMON PLEAS
STARK COUNTY, OHIO



CONSTANCE L. DUTTON-
SPUHLER, et al.,

Appellant,

vs,

DIRECTOR, OHIO DEPARTMENT
OF JOB AND FAMILY SERVICES,
et al.,

Appellees.

CASE NO. 2014CV01348

JUDGE KRISTIN G. FARMER

JUDGMENT ENTRY AFFIRMING
THE DECISION OF THE
OHIO UNEMPLOYMENT
COMPENSATION REVIEW
COMMISSION

This matter came before the Court on an Administrative Appeal from a decision by the Unemployment Compensation Review Commission (hereinafter, "Review Commission") issued on May 7, 2014, denying the claim of Appellant Constance L. Dutton-Spuhler (hereinafter, "Appellant") for unemployment benefits. In denying Appellant's claim, the Review Commission determined that the Appellant was discharged by Appellee, Bio Medical Applications of Ohio, Inc. (hereinafter, "Appellee"), with just cause in connection with work.

Statement of the Case

Appellant was employed by the Appellee from July 1998, until she was discharged from her employment on November 26, 2013. Appellant was discharged for violating company policy when she submitted a request for a medical procedure without physician approval.

Appellant applied for unemployment compensation benefits and was denied. Appellant filed an appeal with the Ohio Department of Jobs and Family Services (hereinafter, "ODJFS"). On January 14, 2014, the ODJFS issued a Redetermination

disallowing Appellant's application for benefits based upon the finding that she was discharged from her employment for just cause in connection with work.

On January 19, 2014, Appellant filed an appeal of the Redetermination decision with the Unemployment Compensation Review Commission (hereinafter, "Review Commission"). A hearing was held on March 20, 2014, before a Review Commission Hearing Officer. The Hearing Officer issued its decision, upholding the prior decisions disallowing Appellant's claims for benefits.

Appellant then filed an appeal with the Review Commission. The Review Commission denied the request for review on May 7, 2014. Appellant filed the instant action on June 5, 2014, appealing the denial of the request for review by the Review Commission.

Standard of Review

The standard of review by the Court is set forth in R.C. §4141.282 as follows:

(H) REVIEW BY THE COURT OF COMMON PLEAS

The court shall hear the appeal on the certified record provided by the commission. 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 modify the decision, or remand the matter to the commission. Otherwise, the court shall affirm the decision of the commission.

In its Decision, the Review Commission states, in pertinent part:

FINDINGS OF FACT

Claimant was employed by Bio Medical Applications of Ohio, Inc. from July 6, 1998 through November 26, 2013. She last served as a vascular access coordinator at a dialysis unit.

As a vascular access coordinator, claimant was often involved in submitting requests for patient procedures. The employer's policies dictated that claimant consult with a patient's physician prior to submitting a request for a procedure.

In mid-November 2013, claimant began the process of submitting a request for a removal of a patient's catheter. After starting the process, claimant did not consult with the patient's physician as she planned to first complete matters that she felt to be more urgent. After claimant began the process of submitting the request for the procedure, the patient at issue scheduled the removal of her catheter and the removal was performed without her physician authorizing the procedure.

Claimant's supervisors felt that claimant displayed extremely poor judgment by failing to obtain the physician's approval when beginning the process of requesting the patient's procedure. Upon review of the matter, her supervisors found that the patient at issue was actually a patient of another medical office and not the office with which claimant was affiliated. When questioned regarding that specific matter, claimant mentioned that the patient appeared as an active patient in the employer's database.

Claimant's supervisors determined that claimant's actions were inappropriate and should lead to her discharge. Claimant was discharged by Bio Medical Applications of Ohio, Inc. on November 26, 2013.

REASONING

Claimant was discharged by Bio Medical Applications of Ohio, Inc. because she began the process of submitting a request for a patient's medical procedure without consulting with the patient's physician as required. In addition, the patient at issue was not a patient of the medical office with which claimant was affiliated. Claimant's actions constitute fault that will serve to suspend her unemployment compensation benefit rights. Claimant was discharged by Bio Medical Application of Ohio, Inc. for just cause in connection with work. As claimant's separation was disqualifying, her Application for Determination of Benefit Rights is disallowed.

(Appellee Ohio Department of Job and Family Services, Exhibit A).

Eligibility and qualifications for benefits is set forth in R.C. §4141.29 (D)(2)(a),

which provides:

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:

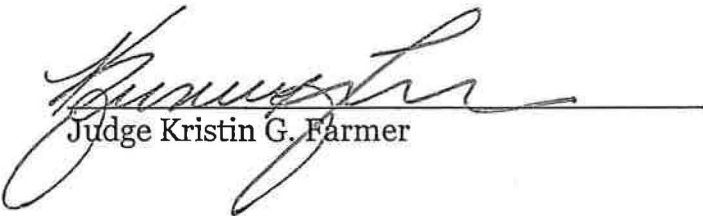
(a) The individual quit work without just cause or has been discharged for just cause with the individual's work.

The claimant has the burden of proving her entitlement to unemployment compensation benefits under this statutory provision. *Irvine v. Unemployment Compensation Bd. of Review* (1985), 44 Ohio App. 2d 10, 17.

"Just cause" for the purposes of the above statute has been defined as "that which, to an ordinary intelligent person, is a justifiable reason for doing or not doing a particular act." *Id.*, citing *Peyton v. Sun T.V.* (1975), 44 Ohio App.2d 10.

Upon review of the complete record in this matter, the Court finds that the decision of the Review Commission was not unlawful, unreasonable, or against the manifest weight of the evidence, therefore, the Court hereby affirms the decision of the Review Commission that the Appellant was discharged with just cause in connection with work.

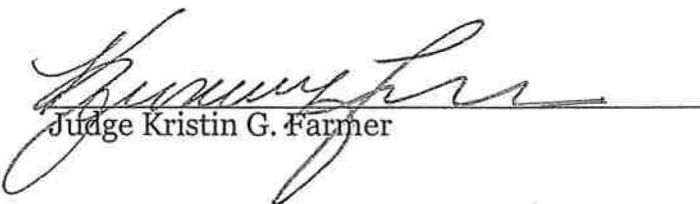
IT IS SO ORDERED.


Judge Kristin G. Farmer

Copies: Daniel J. Funk, Esq.
Susan M. Sheffield, Esq.

**NOTICE TO THE CLERK:
FINAL APPEALABLE ORDER**

IT IS HEREBY ORDERED that **notice and a copy** of the foregoing Judgment Entry shall be served on all parties of record within three (3) days after docketing of this Entry and the service shall be noted on the docket.


Judge Kristin G. Farmer