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APR 17 2015  
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IN THE COURT OF COMMON PLEAS  
MAHONING COUNTY, OHIO

SHEILA PERRY	)	CASE NO. 14 CV 1177
	)	COURTROOM NO. 4
	)	
APPELLANT	)	JUDGE JOHN M. DURKIN
	)	
VS.	)	
	)	JUDGMENT ENTRY
ARAMARK CORRECTIONAL SERVICES, LLC, ET AL	)	
	)	
APPELLEES	)	

This matter has come before the Court pursuant to a timely appeal from a decision of the Ohio Unemployment Compensation Review Commission (“Review Commission”) pursuant to Ohio Revised Code Section 4141.282.

The record before the Review Commission establishes that Appellant, Sheila Perry (“Perry”) worked in a food service position at the Ohio State Penitentiary from 1998 until September 2013. In September 2013 the Ohio State Penitentiary outsourced its food service operations to Aramark Correctional Services, LLC (“Aramark”). On September 19, 2013, Perry became employed as Assistant Food Service Director for Aramark at the Ohio State Penitentiary. On December 19, 2013 Perry submitted a one sentence letter of resignation to Aramark advising that she was resigning from her position as Assistant Food Service Director effective January 2, 2014. Thereafter, Perry filed an application for unemployment benefits.

The Director, Ohio Department of Job and Family Services (“Director”) issued an initial determination on January 24, 2014 that Perry quit her employment with Aramark without just cause and disallowed Perry’s application for benefits.



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Perry timely appealed the Director's determination and on February 13, 2014, the Director affirmed the initial determination disallowing Perry's claim for benefits. Thereafter, Perry filed a timely appeal and the matter was transferred to the Review Commission on February 26, 2014.

A telephonic evidentiary hearing was held before the Review Commission on March 11, 2014. The Review Commission issued a decision on March 26, 2014 affirming the redetermination by the Director disallowing Perry's claim for benefits. The Review Commission found that Perry quit her employment with Aramark without just cause and was therefore ineligible for unemployment benefits.

Perry's request for further review by the Review Commission was denied on May 7, 2014. This appeal followed.

The procedure for reviewing a Review Commission's decision is set forth in R.C. 4141.282(H) which provides as follows:

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.

To reverse, vacate or remand the matter, this Court must find that the decision of the Review Commission was unlawful, unreasonable or against the manifest weight of the evidence. In conducting the review, it has long been established that the reviewing court is not permitted to substitute its judgment for that of the Review Commission. Rather, this Court is limited to determining whether there is evidence in the record to support the Review Commission's decision. *Kilgore v. Board of Review*, 2 Ohio App.2d

69, 206 N.E.2d 423 (4<sup>th</sup> Dist. 1965); *Roberts v. Hays*, 9<sup>th</sup> Dist. No. 21550, 2003-Ohio-5903, paragraph 12.

The determination of factual questions is a matter primarily for the hearing officer and the Review Commission. *Brown-Brockmyer Co. v. Roach*, 148 Ohio St. 511, 76 N.E.2d 79 (1947). If some credible evidence supports the Review Commission's decision, the reviewing court must affirm. *C.E. Morris v. Foley Construction Co.*, 54 Ohio St.2d 279, 376 N.E.2d 578 (1978).

In this case, Perry was found to have quit her employment with Aramark without just cause pursuant to R.C. 4141.29(D)(2)(a). That section concerns eligibility for employment benefits and provides in part as follows:

(D) 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 in connection with the individual's work...

“Traditionally, just cause, in the statutory sense, is that which, to an ordinary intelligent person, is a justifiable reason for doing or not doing a particular act.” *Irvine v. Unemp. Comp. Bd.*, 19 Ohio St.3d 15, 482 N.E.2d 587 (1985). The Seventh District Court of Appeals considered the “just cause” issue in *Kosky v. American Gen. Corp.*, 7<sup>th</sup> Dist. No. 03-BE-31, 2004-Ohio-1541. The Court stated, at paragraph 14 as follows:

It is fundamental that the trier of fact is primarily responsible for weighing the evidence and determining the credibility of the witnesses...In unemployment compensation cases, the determination of whether just cause exists is a purely factual question which lies primarily within the province of the Review Commission.

In this case, the issue before the Review Commission was whether or not Perry had just cause to quit her employment with Aramark when she submitted her resignation.

It has been determined that an applicant for unemployment compensation benefits must be unemployed involuntarily, and the act of resignation from employment is essentially an involuntary one only when the individual has just cause to quit. *See Henize v. Giles*, 69 Ohio App.3d 104, 110-11, 590 N.E.2d 66 (4<sup>th</sup> Dist. 1990); *Baker v. Ohio Dept. of Job & Family Servs.*, 6<sup>th</sup> Dist. No. L-06-1198, 2007-Ohio-743, paragraph 11.

Perry testified that she resigned because she was under stress and frustrated because she was working with a new Food Service Director and new cook supervisors who had little or no experience in correctional food service. She further testified that she believed that her work environment was unsafe since she had to work with an inexperienced staff. Perry testified that though she informed her supervisor they were under-staffed and that cook supervisors had developed personal relationships with inmates on parole which endangered her life, nothing was done to correct the problems. Tr. at 7-9.

The Director argues that there is conflicting testimony in that some of the employees working in the kitchen were not inmates as argued by Perry, but rather, workers who lived in a halfway house and not incarcerated in the prison. Further, Perry's supervisor testified that when Perry handed him her resignation letter, she did not inform him why she was resigning and though he recalled that Perry complained to him about some general matters, there was nothing specific he could recall. The Director further argues that Perry's complaints about relationships the cooks may have had with the inmates that put her in danger is unsupported in the record. Likewise, there is no evidence that Perry provided Aramark with anything to show that she was having health problems as a result of work stress prior to her resignation. Tr. at 14-16.

The Hearing Officer determined, after considering the testimony of the parties, that Perry quit her employment with Aramark without just cause. The hearing officer was responsible for weighing and considering the evidence to determine if Perry quit her employment without just cause. There is support in the record for the determination that Perry quit her employment without just cause. This Court cannot substitute its judgment for that of the hearing officer.

This Court finds that the Review Commission's factual determinations are supported by competent, credible evidence. The Court further finds that the Review Commission's Decision is not unlawful, unreasonable or against the manifest weight of the evidence. Therefore, the Decision of the Ohio Unemployment Compensation Board of Review is hereby affirmed.

DATE: \_\_\_\_\_

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JUDGE JOHN M. DURKIN