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IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

FOR COURT USE ONLY	
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Line #:	

TANIKA EVANS,

Appellant,

vs.

RJ REYNOLDS TOBACCO, et al.,

Appellees.

Case No. A 1404667

Judge Jerome J. Metz

ENTERED
MAY 08 2015

ENTRY ADOPTING THE
MAGISTRATE'S DECISION

This case came to be heard upon an appeal from the decision of the Ohio Unemployment Compensation Review Commission ("Review Commission") that disallowed benefits to the Appellant Tanika Evans. After due consideration of the certified record of the Review Commission, the legal briefs filed by the parties and the applicable legal authority, the Magistrate found that the decision of the Review Commission was not unlawful, unreasonable or against the manifest weight of the evidence. 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.

MAGISTRATE

MAY 04 2015

HAS SEEN

COURT OF COMMON PLEAS
ENTER
<i>Metz</i>
JEROME J. METZ, JR. JUDGE
THE CLERK SHALL GIVE NOTICE
TO PARTIES PURSUANT TO CIVIL
RULE 63.02
JUDGE JEROME J. METZ
AS COSTS HEREIN.

ENTERED

MAY 07 2015

JEROME J. METZ, JR. JUDGE

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

TANIKA EVANS,

Appellant,

vs.

RJ REYNOLDS TOBACCO, et al.,

Appellees.

Case No. A 1404667

Magistrate Michael L. Bachman

MAGISTRATE'S DECISION



RENDERED THIS 13TH DAY OF APRIL, 2015

This case is an appeal from the Ohio Unemployment Compensation Review Commission's ("Review Commission") July 9, 2014 Decision Disallowing Request for Review of the May 19, 2014 Review Commission hearing officer's Decision finding that Appellant Tanika Evans ("Appellant") was discharged from employment at RJ Reynolds Tobacco ("Reynolds") with just cause.¹ This appeal, filed pursuant to R.C. 4141.282, was taken under submission after filing of briefs.

BACKGROUND

The Appellant filed for unemployment compensation benefits on February 14, 2014. Appellee, Director, Ohio Department of Job and Family Services ("Director"), issued an initial determination that disallowed benefits.² The Appellant filed a timely appeal from the initial determination. The Director issued a Redetermination that affirmed the initial determination. The Appellant filed an appeal from the

¹ Decision of the Review Commission issued May 19, 2014.

² Determination of Unemployment Compensation Benefits No. 227150022-1.

Redetermination. The Director transferred jurisdiction of the claim to the Review Commission.

The Review Commission's hearing officer affirmed the Director's decision. The hearing officer held that the Appellant was discharged from employment with just cause. The Appellant's request for further review by the Review Commission was disallowed. The Appellant appealed to this Court.

STANDARD OF REVIEW

The court shall hear the appeal upon receipt of the certified record provided by the Review Commission. If the court finds that the decision of the Review Commission 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.³ Otherwise, the court shall affirm the decision.⁴ A reviewing court may not make factual findings or determine a witness's credibility and must affirm the Review Commission's Decision if some competent, credible evidence in the record supports it.⁵ A reviewing court may not reverse the Review Commission's decision "simply because reasonable minds might reach different conclusions".⁶

DISCUSSION

The Ohio Revised Code states:

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:

³ Ohio Rev. Code 4141.282(H).

⁴ *Id.*

⁵ *Williams v. Ohio Dept. of Job and Family Servs.*, 129 Ohio St. 3d 332, 2011-Ohio-2897, ¶ 20, citing *Irvine v. Unemp. Comp. Bd. of Review*, 19 Ohio St. 3d 15, 482 N.E.2d 587 (1985).

⁶ *Id.*

(a) The individual quit work without just cause or has been discharged for just cause in connection with the individual's work[.]⁷

Traditionally, just cause, in the statutory sense, is that which, to an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act. The determination of what constitutes just cause must be analyzed in conjunction with the legislative purpose underlying the Unemployment Compensation Act. Essentially, the Act's purpose is to enable unfortunate employees, who become and remain *involuntarily* unemployed by adverse business and industrial conditions, to subsist on a reasonable decent level and is in keeping with the humanitarian and enlightened concepts of this modern day. Likewise, the act was intended to provide financial assistance to an individual who had worked, was able and willing to work, but was temporarily without employment through no fault or agreement of his own.⁸

The hearing officer's Finding of Facts state:

The claimant worked for this business from July 22, 2013 through February 13, 2014, as a Territory Sales Manager. The claimant's supervisor was Beverly Jones.

The claimant was terminated for her job performance. The most recent incident occurred on or about February 6, 2014, when the claimant had entered into the employer's computer system that a business owner had changed their cigarette prices to the correct price, even though they had not done so. The employer viewed this as falsifying a work report. The claimant knew the correct procedure that she was to follow, but failed to enter the price that the business owner was currently charging for the product. The claimant informed the employer that she took the owner at his word that he would change his prices to the correct prices later in the day.

Prior to the last incident, the claimant had signed two written warnings about her performance and/or behavior in November, 2013. The most recent written warning was signed by the claimant on November 18, 2013, for being verbally abusive towards another Territory Manager. This warning noted that further issues could lead to her termination.⁹

The Court has reviewed the record provided by the Review Commission, the brief of the Director and the brief of the Appellant. The Appellant contends that this

⁷ Ohio Rev. Code 4141.29(D)(2)(a).

⁸ *Irvine*, supra, at 17 (citations omitted) (emphasis in original).

⁹ Decision of the Review Commission.

court should direct its focus to the sworn testimony given by the Appellant and disregard the remainder certified record filed by the Review Commission.¹⁰ Appellant further contends that she lacked knowledge of procedure for the last incident that caused her termination.¹¹

The Director contends that the Court is required to review the entire record supplied by the Review Commission under R.C. 4141.282(H) just as the hearing officer had to under Ohio Adm. Code 4146-7-01. The Director argues that the weight of evidence supports the hearing officer's finding that the Appellant was discharged from employment for just cause for poor performance despite the fact that a Reynolds's representative failed to appear for the hearing before the Review Commission.¹²

The Court finds that there is some competent evidence in the record to support the hearing officer's factual determinations.¹³ The Court also finds that the Appellant's actions were against Reynolds's best interest. In this instance, the Court is not convinced that the Appellant's testimony alone outweighs the overwhelming evidence contained in the record that shows that Appellant had performance deficiencies especially considering that some statements written by Appellant support evidence submitted by Reynolds. Viewing the entire record, this court cannot conclude that the Review Commission erred when it found that the Appellant was discharged for just cause.

¹⁰ Appt's Br. p. 5.

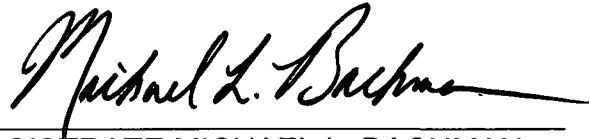
¹¹ *Id.*

¹² Director's Brief pp. 12-14.

¹³ *Williams v. Ohio Dept. of Job and Family Servs.*, 129 Ohio St. 3d 332, 2011-Ohio-2897, 951 N.E.2d 1031.

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.

A handwritten signature in black ink, reading "Michael L. Bachman". The signature is written in a cursive style with a long horizontal flourish extending to the right.

MAGISTRATE MICHAEL L. BACHMAN

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 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).

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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: 4-14

Deputy Clerk: 