

**IN THE COURT OF COMMON PLEAS  
- GENERAL DIVISION -  
TRUMBULL COUNTY, OHIO**

	)	<b>CASE NUMBER: 2014 CV 2036</b>
	)	
<b>RACHEL LEATHERBERRY</b>	)	
<b>PLAINTIFF</b>	)	
	)	
<b>VS.</b>	)	<b>JUDGE RONALD J. RICE</b>
	)	
<b>DIRECTOR, ODJFS, ET AL</b>	)	
<b>DEFENDANTS</b>	)	<b><u>JUDGMENT ENTRY</u></b>

This cause came before the Court on the administrative appeal filed by Rachel Leatherberry. Leatherberry filed an administrative appeal following a decision by the Unemployment Compensation Review Commission. This Court has jurisdiction pursuant to R.C. 4141.282. The Court has reviewed the pleadings, briefs, record, exhibits and the relevant applicable law.

R.C. 4141.282 (H) provides: "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."

This administrative appeal concerns a decision by the UCRC issued on August 13, 2014. A request for review of this decision was disallowed on October 8, 2014. According to the August decision, Leatherberry "\*\*\* refused an offer of work without good cause. She is ineligible for benefits beginning March 16, 2014 \*\*\*."

The UCRC decision was based on the following findings of fact: "In March 2014, claimant applied for a dental assistant position through a Craigslist ad that had

been placed by C. Aydin Cabi D.D.S., Inc.'s Office Manager, Lacie Detillio. Ms. Detillio reviewed the claimant's information and called claimant to discuss the position. During the phone call, Ms. Detillio invited claimant to a 'working-interview' with the dentist. She also told claimant that the office was in Aurora, Ohio, and that claimant should be sure that the commute would be acceptable. Claimant agreed to attend a working interview on March 17 and 18, 2014. During this time, claimant worked with the dentist and patients. She was paid approximately \$133.00 for her work. At the end of the interview on March 18, Ms. Detillio offered claimant the full time dental assistant position at \$18.00 an hour. The claimant asked for \$20.00 an hour. Ms. Detillio told claimant that she could not offer more than \$18.00, but advised her that she could be eligible for a raise after ninety days. Claimant refused the position."

A further review of the procedural history is required. On November 22, 2013, Leatherberry filed her application for unemployment benefits with ODJFS. The claim was initially allowed for a one-year period. On May 8, 2014, ODJFS issued a determination regarding Leatherberry's refusal of work with Dr. Cabi. According to that determination, "The claimant refused because the distance to the new employment was outside the normal commuting area for his/her trade or occupation." Dr. Cabi appealed and the determination was affirmed on June 24, 2014 finding Leatherberry refused work for just cause. Dr. Cabi appealed this redetermination and the matter was transferred to UCRC.

A telephone hearing with the UCRC was held on July 28, 2014. Leatherberry was not present for this hearing. The hearing officer's decision was issued on August 13, 2014. The time for appeal expired on September 3, 2014. Leatherberry filed her appeal on September 5, 2014. Despite the delay, the UCRC found the appeal was

timely filed and accepted the appeal for review. On October 8, 2014, the UCRC issued a decision disallowing Leatherberry's request for review. This appeal followed.

At the hearing on July 28, 2014, the office manager for Dr. Cabi testified on behalf of the company. The hearing officer inquired if Leatherberry ever raised the commute as a concern. "\*\*\*[S]he did she stated that the commute was \*\*\* a concern only in the sense that it's only gonna pay \$18 an hour. She said for the drive itself and for gas, I think that you know \$20 is not an unreasonable to ask for so that was part of her [sic]."

Leatherberry appealed the hearing officer's decision finding she refused employment without just cause. According to the letter submitted by Leatherberry, "When I got the phone call for the interview at Dr. Cabi's office I was not familiar with where he was located but was so excited to get a call for an interview I of course accepted. It wasn't until I was driving there, realizing that I needed to get on the turnpike, pay tolls etc., that I realized this office may be further than I anticipated." Leatherberry calculated the commute on MapQuest and realized it was more than 50 miles each direction plus tolls and extra driving time. As a single mother, Leatherberry seriously weighed the commute versus the potential job. She even researched a potential apartment closer to the location as well as a day-care option; both were higher than her current standards of living. Leatherberry determined she could not afford to take the job due to the commute at the current rate of pay offered by Dr. Cabi.

Leatherberry's request for review was disallowed by the UCRC on October 8, 2014 without further explanation. This appeal followed.

The Court finds the UCRC decision was against the manifest weight of the evidence. It is apparent from the hearing officer's decision that no weight whatsoever was given to Leatherberry's assessment that the commute was a consideration in rejecting the job with Dr. Cabi. However, it is clear from Leatherberry's statement that even upon the initial phone call from the office to set up the interview, she was concerned about the commute distance. The office manager even acknowledged that Leatherberry's justification for requesting more money per hour was solely due to the commute. The only evidence before the UCRC as to the reason why Leatherberry rejected the offer was the lengthy and expensive commute. Leatherberry even made attempts to mitigate this expense by inquiring as to the general costs of living in the immediate area. However, these expenses proved to be too high and thus the commute was the only available option.

Just cause for rejecting potential employment must be consistent with legislative purposes underlying the Unemployment Compensation Act. *Vetanze v. Administrator, Ohio Bureau of Employment Services*, 7<sup>th</sup> Dist. No. 99-BA-17, 2000 WL 818918, 2. "The Act exists 'to enable unfortunate employees, who become and remain *involuntarily* unemployed by adverse business and industrial conditions, to subsist on a reasonably decent level and is in keeping with the humanitarian and enlightened concepts of this modern day.'" *Id.* (internal citations omitted).

A lengthy commute is a justifiable reason for rejecting employment. *Id.* Adding to the lengthy commute considerations for Leatherberry were the location, i.e. the Snowbelt, and the tolls for the turnpike travel. These are additional justifiable reasons for refusing the offer extended.

The Court finds the decision of the hearing officer for the UCRC dated August 13, 2014 was against the manifest weight of the evidence. Accordingly, the Court finds the decision of the UCRC disallowing the request for review on October 8, 2014, was likewise against the manifest weight of the evidence and the same are hereby reversed. The decision of the ODJFS finding Leatherberry refused an offer of work for just cause is reinstated. The Court finds the administrative appeal to be well taken. Costs to be paid by the Defendant.

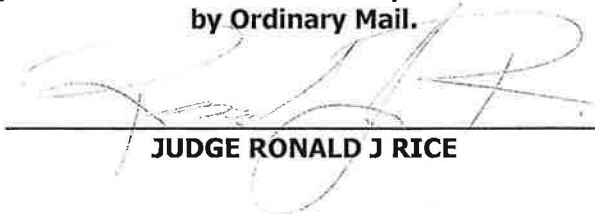
IT IS SO ORDERED.



JUDGE RONALD J. RICE

Date: 8-5-14-2015

**TO THE CLERK OF COURTS: You Are Ordered to Serve  
Copies of this Judgment on all Counsel of Record  
or Upon the Parties who are Unrepresented Forthwith  
by Ordinary Mail.**



JUDGE RONALD J RICE

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