

IN THE COURT OF COMMON PLEAS OF SENECA COUNTY, OHIO

CITY OF TIFFIN
51 E. MARKET ST.
TIFFIN, OH 44883
APPELLANT,

CASE No. 14CV0244

JUDGE STEVE C. SHUFF

-VS-

DIRECTOR, OHIO DEPARTMENT
OF JOB AND FAMILY SERVICES
30 E. BORAD ST., 32ND FLOOR
COLUMBUS, OH 43215

-AND-

STEVEN C. DRYFUSE
1723 S. TWP. RD. 66
NEW RIEGEL, OH 44853
APPELLEES.

JUDGMENT ENTRY

COMMON PLEAS COURT
SENECA COUNTY, OHIO
2015 JUN -3 AM 11:24
JEAN A. ECKELBERRY
CLERK

This case comes before the Court upon the Notice of Appeal from Decision of the Ohio Unemployment Compensation Review Commission Dated and Mailed August 14, 2014. The Court has reviewed the briefs of all parties and the record, including transcripts.

I. RELEVANT BACKGROUND AND MATERIAL FACTS

Appellant City of Tiffin brings this appeal of a decision of the Ohio Unemployment Compensation Review Commission, mailed on August 14, 2014 in the case of In re claim of: Steven C. Dryfuse, Docket No. C2014-008185.

Appellee Steven C. Dryfuse filed an Application for Determination of Benefit Rights on February 20, 2014, following the termination of his employment

Ohio Attorney
General's Office

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with the City of Tiffin on February 17, 2014. On March 12, 2014, Appellee Director, Ohio Department of Job and Family Services granted Mr. Dryfuse's application for benefits, and that decision was affirmed in a Director's Redetermination issued April 4, 2014, because the Director found that Mr. Dryfuse was discharged without just cause in connection with work.

The City of Tiffin appealed the redetermination to the Review Commission, and a hearing was held on June 10, 2014. After the hearing, the hearing officer affirmed the Director's redetermination. The City of Tiffin then filed a request for review with the Review Commission, which was granted, and on August 14, 2014, the Review Commission affirmed the hearing officer's decision. This appeal followed.

Mr. Dryfuse had been employed by the City of Tiffin as Parks and Recreation Director. His employment was terminated by City Administrator Debra A. Reamer after Ms. Reamer was contacted by an investigating officer for the Ohio Bureau of Criminal Investigation ("BCI") who shared with Ms. Reamer the results of a criminal investigation of which Mr. Dryfuse was the subject. The investigation involved allegations of illegal sexual contact between Mr. Dryfuse and at least one minor child. Ms. Reamer indicated that the BCI agent told her that Mr. Dryfuse was going to be indicted for the actions uncovered during the investigation.

Based upon this information, and her consideration of the job duties of Mr. Dryfuse, which included direct contact with minors, Ms. Reamer terminated Mr. Dryfuse from employment with the City of Tiffin. In terminating him, Ms. Reamer relied upon the “Tiffin Park & Recreation Policy” which reads, “[a]ny person convicted of or having open criminal charges for any crime against children (misdemeanor or felony) and/or any violent crimes shall be prohibited from participation in any capacity in youth programs or activities sponsored by the Tiffin Park & Recreation Department.” At the time of the termination of his employment, Mr. Dryfuse was not the subject of any such criminal charges, nor had he been convicted of any such charges.

The City of Tiffin also has a progressive discipline policy, according to Ms. Reamer’s testimony, which was also not followed with regard to the termination of Mr. Dryfuse’s employment.

II. LAW AND APPLICATION

Section 4141.282(H) of the Ohio Revised Code requires that a Court of Common Pleas affirm the Decision of the Review Commission unless the Court finds that the decision was unlawful, unreasonable, or against the manifest weight of the evidence. The Court cannot reverse a decision simply because reasonable minds may reach a different conclusion. *Irvine v. State Unemployment Compensation Bd. of Review* (1985), 19 Ohio St.3d 15, 18.

The City of Tiffin argues that the decision of the Review Commission is unlawful, unreasonable, and against the manifest weight of the evidence. The City of Tiffin argues that because of the allegations of illegal sexual contact between Mr. Dryfuse and minors, that his discharge was with cause related to his employment, as his position with the City necessitated contact with minors and his discharge was necessary to protect the children of the community. However, Ms. Reamer testified that other options were available to the City with regard to Mr. Dryfuse which would have achieved the same result, such as suspension or unpaid leave. The City did not exercise these options, however, electing instead to discharge Mr. Dryfuse.

The City further argues that the Review Commission improperly relied upon the fact that Mr. Dryfuse had not been charged or convicted of any crime involving children, thus employing the wrong standard of review. This Court disagrees. It is appropriate in an analysis of the evidence to consider whether Mr. Dryfuse had been charged with or convicted of a crime involving children, because that is the policy the City of Tiffin itself has in place with regard to employment matters in the Parks and Recreation Department, and, as stated by Ms. Reamer, that is the policy which was relied upon in discharging Mr. Dryfuse. That issue is properly contemplated by a reviewer of the evidence because the City of Tiffin asks their employees to rely upon it, and relied upon it itself in discharging Mr. Dryfuse.

The City of Tiffin violated its own employment policy when it discharged Mr. Dryfuse based upon the findings of a criminal investigation, but prior to any relevant charge or conviction. Further, it had other progressive disciplinary options available, including those which could have relieved the City of any concerns with regard to Mr. Dryfuse having contact with children, but it did not exercise those options, choosing instead to discharge Mr. Dryfuse.

The Review Commission could have properly found, based upon the evidence and facts in the record, that Mr. Dryfuse was discharged by the City of Tiffin without just cause related to his employment.

CONCLUSION

For the above stated reasons, and based upon the facts found by the Review Commission, this Court finds that the decision of the Review Commission is not unlawful, unreasonable, or against the manifest weight of the evidence, and should therefore be **AFFIRMED**. Court costs to be paid by the City of Tiffin.

IT IS SO ORDERED.



JUDGE STEVE C. SHUFF

TO THE PARTIES: This is a final appealable order pursuant to Rule 54 of the Ohio Rules of Civil Procedure.

TO THE CLERK: You are instructed to serve a copy by regular United States mail of the foregoing upon:

- 1) Attorney Brent T. Howard, 84-88 Washington Street, P.O. Box 767, Tiffin, OH 44883;
- 2) Attorney Eric A. Baum, One Government Center, Suite 1340, Toledo, OH 43604; and
- 3) Attorney James W. Fruth, 187 South Washington Street, Tiffin, OH 44883.