

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

Laura L. Sifferlin,		Case No. 13CV-13740
Appellant,		Judge Sheeran
vs.		
Sales Focus, Inc., et al.,		
Appellees.		

**Decision and Judgment Entry Affirming Decision of Ohio
Unemployment Compensation Review Commission**

and

Notice of Final Appealable Order

Sheeran, J.

This case is a Revised Code 4141.282 administrative appeal, by Laura L. Sifferlin (Appellant), from a “Decision Disallowing Request for Review” that the Ohio Unemployment Compensation Review Commission issued on November 20, 2013. In that Decision, the Commission denied Appellant’s request for further review of a Hearing Officer’s decision, in which the Hearing Officer disallowed Appellant’s application for unemployment compensation benefits.

On December 20, 2013, this Court issued a briefing schedule directing Appellant to file a brief in support of her appeal. Appellant did not file a brief, which prompted Appellee the Director of the Ohio Department of Job and Family Services to file a motion to dismiss the appeal pursuant to Civ. R. 41(B)(1). Appellant did not respond to the motion to dismiss. Nevertheless, the Court denied the Director’s motion because an administrative appeal that is filed pursuant to R.C. 4141.282 may not be dismissed without an examination of the record to

determine whether the order appealed from was “unlawful, unreasonable, or against the manifest weight of the evidence.” R.C. 4141.282(H).

The Commission has certified its record to the Court, and the Court has examined the record. Having done so, the Court issues the following decision affirming the Commission’s Decision.

Background and Procedural History

Appellant was employed as a sales representative by Sales Focus Inc. from February to August 2013. Appellant’s job was to sell kilowatt hours.

When Appellant began her employment with Sales Focus Inc., she signed a compensation agreement. Pursuant to the agreement, Appellant was to be paid a salary on a bi-weekly basis, and she was to be paid a minimum salary of \$910 for each bi-weekly pay period. However, if Appellant met a sales quota of 500 megawatt hours per pay period, she would receive a bi-weekly salary of \$1,154 for that pay period. The compensation agreement also provided that Appellant could earn commissions for her sales.

On August 8, 2013, Appellant quit her job with Sales Focus Inc., because she contended that the employer had not paid her in accordance with the compensation agreement.

On August 9, 2013, Appellant applied to the Ohio Department of Job and Family Services (ODJFS) for unemployment compensation benefits, for a benefit year beginning August 4, 2013.

On August 23, 2013, Sales Focus Inc., through its Human Resources Administrator, Kayla Conklin, provided separation information to ODJFS. The documentation submitted by Ms. Conklin demonstrated that, for three pay periods preceding Appellant’s termination of her employment, she did not meet her bi-weekly sales quota. During the pay period of June 3-16,

2013, Appellant sold only 261 megawatt hours. During the pay period of July 1-14, 2013, Appellant sold only 141 megawatt hours. During the pay period of July 15-28, 2013, Appellant sold only 466 megawatt hours. Therefore, for those three pay periods, Appellant was paid the lower bi-weekly salary of \$910. HR Director Conklin reported to ODJFS that Appellant was paid all of the salary and commissions that were due to her under her compensation agreement.

In an initial Determination issued on August 30, 2013, ODJFS disallowed Appellant's application for unemployment compensation benefits, having determined that she quit her employment without just cause. Appellant appealed the initial Determination to the Director of ODJFS.

In a Director's Redetermination issued on September 24, 2013, the Director affirmed the initial Determination and disallowed Appellant's application for unemployment compensation benefits, having determined that Appellant quit her employment without just cause. The Director stated, in the Redetermination:

The claimant quit SALES FOCUS, INC. on 08/08/2013. The claimant alleged that his/her wages were not paid in accordance with the wage agreement. However, the claimant has not established that the employer did not fulfill the terms of the wage agreement. Ohio's legal standard that determines if a quit is without just cause is whether the claimant acted as an ordinary person would have under similar circumstances. After a review of the facts, this agency finds that the claimant quit without just cause under Section 4141.29(D)(2)(a), Ohio Revised Code. Therefore, no benefits will be paid until the claimant obtains employment subject to an unemployment compensation law, works six weeks, earns wages of \$1380, and is otherwise eligible.

Appellant appealed the Director's Redetermination to the Ohio Unemployment Compensation Review Commission.

On October 15, 2013, a Hearing Officer conducted a telephone hearing on Appellant's appeal. Appellant participated in the hearing but Sales Focus Inc. did not. Appellant testified that, while she was employed by Sales Focus Inc., she always met her bi-weekly sales quota of

500 megawatt hours, and she was therefore entitled to be paid a bi-weekly salary in the amount of \$1,154 for every pay period. Appellant testified that, because Sales Focus Inc. paid her only \$910 for several of her most recent bi-weekly pay periods, the employer did not pay her the salary she was entitled to receive under her compensation plan, so she quit her job.

On October 23, 2013, the Hearing Officer issued a decision on Appellant's appeal. The Hearing Officer made the following factual findings:

The claimant worked for Sales Focus, Inc. from February 28, 2013 to August 9, 2013. She was employed as a sales representative.

At the start of her employment, the claimant signed a compensation agreement. The agreement stated that the claimant would receive a minimum bi-weekly salary of \$910.00. If she met her sales quota of 500 megawatt hours (mWh) per pay period, the claimant would receive \$1,154 for that pay period. The compensation agreement also provided that the claimant could earn commission for her sales. If she did not meet her quota for a specific pay period, the claimant's commission rates would be reduced by 50%.

For the pay period of June 3-16, 2013, the claimant received \$910.00. During that period, the claimant had 261 mWh of approved sales. During the pay periods of July 1-14, 2013 and July 15-28, 2013, the claimant received \$910.00. The claimant had approved sales of 141mWh for the period of July 1-14 and 466 mWh for the period of July 15-28.

The claimant believed that she had achieved her sales quota every pay period and therefore that she was not receiving the full pay she was entitled to under the compensation agreement. She made several attempts to discuss her concerns with the employer; however she felt that she did not receive a consistent explanation for the discrepancy.

The claimant quit on August 9, 2013.

The Hearing Officer found that Appellant quit her employment with Sales Focus Inc. without just cause. The Hearing Officer provided the following reasoning for the decision:

The claimant testified that her primary reason for quitting was because she believed that she was not receiving the full pay she was entitled to. The claimant argued that she had made her sales quota for every pay period and therefore should have been paid \$1,154.00 for every pay period. In documents provided to ODJFS, the employer established that the claimant did not make the sales quota

for the pay periods discussed above. **The Hearing Officer finds the employer's documents more credible.**

An individual may have good cause for quitting employment due to a unilateral and substantial reduction of the employee's pay by the employer. Here, the claimant was made aware of the employer's pay structure prior to starting work. The evidence establishes that the claimant was paid in accordance with that established structure. Therefore, the claimant must be found to have quit work without just cause. (Emphasis added.)

The Hearing Officer affirmed the Director's Redetermination and disallowed Appellant's application for unemployment compensation benefits.

On October 28, 2013, Appellant requested that the Commission review the Hearing Officer's decision.

On November 20, 2013, the Commission issued a "Decision Disallowing Request for Review," in which the Commission disallowed Appellant's request for further review of the Hearing Officer's decision.

On December 20, 2013, Appellant appealed the Commission's decision to this Court.

Analysis

The purpose of Ohio's Unemployment Compensation Act is to provide financial assistance to persons who are without employment through no fault of their own. *Kohl v. Health Mgt. Solutions*, 10th Dist. No. 15AP-17, 2015-Ohio-4999, ¶ 17. A claimant who has quit her employment without just cause is therefore disqualified from receiving unemployment compensation benefits. R.C. 4141.29(D)(2)(a). 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. *Kohl, supra*, ¶ 18.

Revised Code 4141.282(H), which governs this appeal, 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.

In reviewing a Commission decision, a court is not permitted to make factual findings or credibility determinations. *Houser v. Dir., Ohio Dept. of Job and Family Servs.*, 10th Dist. No. 10AP-116, 2011-Ohio-1593, ¶ 7. Similarly, a court may not substitute its judgment on such issues for that of the Commission. *Id.* Instead, a court must determine whether the Commission's decision is supported by the evidence in the record. *Id.* "Judgments supported by some competent, credible evidence on the essential elements of the controversy may not be reversed as being against the manifest weight of the evidence." *Id.*

The documentation submitted to ODJFS by Sales Focus, Inc., which the Hearing Officer found to be more credible than Appellant's testimony, established that Appellant was paid all of the salary and commissions that were due to her under her written compensation agreement with Sales Focus Inc. Consequently, there is evidence in the record to support the Hearing Officer's determination, as affirmed by the Commission, that Appellant quit her employment without just cause, thereby disqualifying her from receiving unemployment compensation benefits.

Conclusion

Having reviewed the record certified to the Court by the Ohio Unemployment Compensation Review Commission, the Court concludes that the Commission's November 20, 2013 "Decision Disallowing Request for Review" was not unlawful, unreasonable, or against the manifest weight of the evidence. The Decision is therefore **AFFIRMED**.

This is a final, appealable order. Costs to Appellant. Pursuant to Civ. R. 58, the Clerk of Courts shall serve notice of this judgment and its date of entry upon all parties.

Copies electronically transmitted to all parties and counsel of record.

Franklin County Court of Common Pleas

Date: 12-21-2015
Case Title: LAURA L SIFFERLIN -VS- SALES FOCUS INC ET AL
Case Number: 13CV013740
Type: DECISION/ENTRY

It Is So Ordered.

The image shows a handwritten signature in black ink that reads "Patrick E. Sheeran". The signature is written over a circular blue seal. The seal contains the text "COMMON PLEAS COURT" at the top, "FRANKLIN COUNTY OHIO" around the middle, and "WHERE ALL THINGS ARE" at the bottom. The seal is partially obscured by the signature.

/s/ Judge Patrick E. Sheeran

Court Disposition

Case Number: 13CV013740

Case Style: LAURA L SIFFERLIN -VS- SALES FOCUS INC ET AL

Case Terminated: 18 - Other Terminations

Final Appealable Order: Yes