

IN THE COURT OF COMMON PLEAS  
LAKE COUNTY, OHIO

GARY E. JOCHUM )  
 )  
 Appellant )  
 vs. )  
 )  
 EMPRO JOB NETWORK, INC., et al. )  
 )  
 Appellees )

CASE NO. 15CV001187  
JUDGMENT ENTRY

FILED  
2015 DEC 28 P 1:02  
MAUREEN G. KELLY  
LAKE CO. CLERK OF COURT

This cause came on for consideration this day, to wit: December 28, 2015, upon the following:

1. Assignment of Error and Brief of Gary E. Jochum, Plaintiff-Appellant, filed September 15, 2015;
2. Brief of Appellee, Director, Ohio Department of Job and Family Services, filed October 14, 2015; and
3. Reply Brief of Gary E. Jochum, Plaintiff-Appellant, filed October 5, 2015.

This action involves the Appeal of Appellant Gary E. Jochum ("Appellant"), pursuant to R.C. 4141.282, of the decision of the Ohio Unemployment Compensation Review Commission ("UCRC"), disallowing Appellant's Request for Review of the UCRC's hearing officer's decision dated May 14, 2015 disallowing unemployment benefits, demanding repayment of previously-allowed benefits, and finding that Appellant was discharged for just cause.

On December 1, 2014, Appellant filed a claim for unemployment benefits with ODJFS. On December 17, 2014, ODJFS allowed Appellant's claim, but nullified one benefit week because Appellant failed to actively seek suitable work under R.C. 4141.281(A)(4). Appellant then filed an appeal of this Determination of Benefits.

ODJFS subsequently issued a Redetermination of Benefits that affirmed the December 17, 2014 Determination of Benefits and allowed Appellant's claim, but still nullified one benefit week.

Appellant's former employer, Empro Job Network, Inc., ("Empro") filed an appeal of the Determination of Benefits, seeking reversal on the grounds that Appellant was ineligible for unemployment benefits because he voluntarily quit his employment without just cause. On April 8, 2015, ODJFS issued a Determination of Benefits that denied Appellant's claim, finding

that he was ineligible because he voluntarily quit his employment at Empro without just cause under R.C. 4141.29(D)(2)(a).

Appellant filed a timely appeal of the Determination of Benefits of April 8, 2015. ODJFS then transferred jurisdiction to the UCRC. On May 13, 2015, an evidentiary hearing was held on the merits of the disputed claim. Appellant and Robert Boyd, as representative of Empro, both appeared by phone. Following the hearing, a decision was issued by the UCRC hearing officer on May 14, 2015, affirming the ODJFS Determination of Benefits of April 8, 2015.

Appellant filed a Request for Review of the UCRC's decision on June 8, 2015, which was four days after the statutory 21-day appeal period had expired. After notice to the parties, a hearing was held by the UCRC to determine whether Appellant's Request for Review was timely filed. On June 18, 2015, the UCRC issued a decision dismissing Appellant's Request for Review because it was not timely filed in violation of R.C. 4141.281(C)(3). Appellant subsequently filed the instant appeal in this court.

In his Brief, Appellant acknowledges that he did not file his Request for Review within the 21-day statutory time frame, but contends that this was due to a misunderstanding of the deadline rules. Appellant further argues that he was not given notice that his benefits had been disallowed due to Empro's appeal and that Empro was given preferential treatment and permitted to file its appeal four months after his initial benefit allowance. In addition, Appellant asserts that ODJFS erred by finding that he quit his job without just cause when he was actually fired after a hostile takeover of the company.

In response, ODJFS contends that the decision of the UCRC that Appellant failed to timely file his Request for Review was not unlawful, unreasonable or against the manifest weight of the evidence under R.C. 4141.282(H). ODJFS asserts that, pursuant to statute, a hearing officer's decision shall become final unless a request for review is filed and allowed within twenty-one days after the hearing officer's decision is sent. Further, ODJFS argues that Appellant did not meet any of the statutory criteria to be eligible for an extension of the appeal timeline. Moreover, ODJFS maintains that Empro was not given any preferential treatment in that Empro's appeal of the Redetermination of Benefits was filed within the proper time.

Empro filed a Brief incorporating the facts and arguments propounded by ODJFS.

Upon review, the Court finds Appellant's appeal not well taken. R.C. 4141.282(H) governs the scope of review of unemployment compensation appeals and provides in pertinent

part:

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.

Accordingly, the only issue before the court is whether the UCRC's decision finding that Appellant had not filed a timely Request for Review was unlawful, unreasonable or against the manifest weight of the evidence. R.C. 4141.281(A) provides that "[a]ny party notified of a determination of benefit rights or a claim for benefits determination may appeal within twenty-one calendar days after the written determination was sent to the party or within an extended period as provided under division (D)(9) of this section." Appellant admits that he did not submit his Request for Review until four days after the statutory time period, but argues that he is a layperson and did not understand the guidelines. The Court notes that the date by which a request for review was to be filed was clearly stated at the end of the UCRC's decision on Appellant's appeal and therefore did not require any knowledge or understanding beyond that of a layperson. Accordingly, the Court finds that the UCRC's decision dismissing Appellant's Request for Review was not unlawful, unreasonable or against the manifest weight of the evidence. See *Konieczka v. U.C.R.C.*, 8<sup>th</sup> Dist. Cuyahoga No. 65697, 2011-Ohio-4094; *Dixon v. Director, Ohio Dept. of Job and Family Services*, 11<sup>th</sup> Dist. Ashtabula No. 2000-A-0056, 2001 WL 799710 (Jul. 13, 2001).

WHEREFORE, it is the order of this court that the decision of the Unemployment Compensation Review Commission finding that Appellant Gary E. Jochum's Request for Review was not timely is hereby affirmed.

Appellant shall pay court costs.

**IT IS SO ORDERED.**



---

JOHN P. O'DONNELL, JUDGE

Copies to:  
Gary E. Jochum, pro se (Reg. Mail)  
Patrick V. MacQueeney, Asst. Attorney General (Email)  
Robert A. Boyd, Esq. (Email)

**FINAL APPEALABLE ORDER**  
Clerk to serve pursuant  
to Civ.R.58 (B)