

SANDRA KURT  
 IN THE COURT OF COMMON PLEAS  
 2016 SEP 29 PM 3:16 SUMMIT COUNTY, OHIO

STEPHEN M. GRACHANIN	)	CASE NO.: CV2016-05-2478
	)	
Appellant,	)	JUDGE PAUL J. GALLAGHER
	)	
vs.	)	
	)	
PERANTINIDES & NOLAN CO., LPA,	)	<b><u>JUDGMENT ENTRY</u></b>
et al.,	)	(Final and Appealable)
	)	
Appellees.	)	

This matter is before the Court as an appeal from a decision of the Ohio Unemployment Compensation Review Commission (UCRC). The UCRC determined Stephen M. Grachanin was not entitled to unemployment compensation benefits because he quit work without just cause pursuant to R.C. 4141.29(D)(2)(a). Mr. Grachanin argues on appeal the UCRC's decision was unlawful, unreasonable, and against the manifest weight of the evidence.

**STANDARD OF REVIEW**

A Common Pleas Court reviewing a determination by the UCRC may only reverse an unemployment compensation eligibility decision if the decision is unlawful, unreasonable, or against the manifest weight of the evidence. *Ro-Mai Industries, Inc. v. Weinberg*, 176 Ohio App.3d 151, 2008 Ohio 301, 891 N.E.2d 348, at ¶6 (citation omitted).

Every reasonable presumption must be made in favor of the decision and the findings of facts of the UCRC. *Id* at ¶7, citing *Karches v. Cincinnati* (1988), 38 Ohio St.3d 12, 19, 526 N.E.2d 1350. The resolution of factual questions is chiefly within the UCRC's scope of review. *Id.* at ¶8, citing *Tsangas, Plakas, & Mannos v. Ohio Bur. Of Emp. Serv.* (1995), 73 Ohio St.3d 694, 696, 653 N.E.2d 1207. The Court's role is to determine whether the decision of the UCRC

is supported by evidence in the certified record. *Id.* (citations omitted).<sup>1</sup> If the reviewing court finds that such support is found, then the court cannot substitute its judgment for that of the UCRC. *Id.* (citations omitted). The fact that reasonable minds might reach different conclusions is not a basis for reversal of the UCRC's decision. *Id.*, citing *Irvine v. Unemp. Comp. Bd. of Rev.* (1985), 19 Ohio St.3d 15, 18, 482 N.E.2d 587.

R.C. §4141.29(D)(2)(a) establishes the necessary criteria to obtain unemployment compensation benefits for those who leave their jobs. In pertinent part, it provides:

(D) \* \* \* [N]o individual may...be paid benefits \* \* \*:

\* \* \*

(2) \* \* \* if the administrator finds that:

(a) He quit his work without just cause or has been discharged for just cause in connection with his work \* \* \* .”

*Irvine v. State of Ohio, Unemployment Compensation Board of Review* (1985), 19 Ohio St.3d 15, 16-17, 482 N.E.2d 587; R.C. §4141.29

The claimant has the burden of proving [his or] her entitlement to unemployment compensation benefits under this statutory provision, including the existence of just cause for quitting work. (citations omitted).

\* \* \*

Essentially, each case must be considered upon its particular merits. 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. (citations omitted).

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

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<sup>1</sup> “As to factual matters, the common pleas court is limited to determining whether the board's decision is supported by some competent, credible evidence going to all the elements of the controversy; if it is, it cannot be reversed as being against the manifest weight of the evidence.” *DiGiannantoni v. Wedgewater Animal Hospital, Inc.* (1996), 109 Ohio App.3d 300, 305, 671 N.E.2d 1378.

humanitarian and enlightened concepts of this modern day.” (emphasis in original; citations omitted). 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. (citations omitted).

*Irvine v. State of Ohio, Unemployment Compensation Board of Review*, 19 Ohio St.3d at 17-18.

Mr. Grachanin argues there was just cause for his resignation from employment because Perantinides & Nolan Co., LPA breached his employment contract. Alternatively, Mr. Grachanin argues if there was not just cause for his resignation from employment he must be treated as if he were constructively discharged by Perantinides & Nolan Co., LPA. Mr. Grachanin also attempted to insert additional arguments on appeal to support his decision to quit employment with Perantinides & Nolan Co., LPA. Because the additional arguments were not raised to the hearing officer below, the Court rejects them and will not engage in discussing them.

The UCRC Hearing Officer offered the following reasoning for his conclusion that Mr. Grachanin quit work without just cause:

[Grachanin] quit employment with Perantinides & Nolan Co., LPA, Inc. because he was dissatisfied with the funds that were in his employee profit-sharing account and because he felt that the employer planned to discharge him in the future. The evidence and testimony presented establishes that contributions to the employee profit-sharing accounts were not guaranteed as they were dependent upon profits. The evidence and testimony presented also establishes that [Grachanin] had received no formal disciplinary action indicating his job was in jeopardy. Given these circumstances, it cannot be found that [Grachanin] acted as a reasonably prudent person when he quit his employment due to his dissatisfaction with the conditions of his work. [Grachanin] quit employment with Perantinides & Nolan Co., LPA, Inc. without just cause for the purposes of unemployment compensation. \* \* \*

This reasoning is fully supported by the competent and credible evidence and testimony in the record on review. There is no evidence that Perantinides & Nolan Co., LPA breached any employment contract with Mr. Grachanin to give him cause to resign from his employment.

There is also no evidence that Mr. Grachanin was 'constructively discharged' from his employment in any fashion. The UCRC's decision to deny unemployment compensation benefits to Stephen M. Grachanin because he quit work without just cause is AFFIRMED because it is not unlawful, unreasonable or against the manifest weight of the evidence.

IT IS THEREFORE ORDERED, ADJUGDED, AND DECREED that the UCRC's decision to deny unemployment compensation benefits in this case is AFFIRMED.

This is a final and appealable order and there is no just cause for delay.

It is so Ordered.

  
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JUDGE PAUL J. GALLAGHER

cc: Stephen M. Grachanin, *pro se*  
Attorney Matthew A. Mooney  
Attorney Susan M. Sheffield