



96638472

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

REGINA G. HILL
Plaintiff

2016 NOV 29 P 1:43

Case No: CV-03-507218

DIRECTOR, OHIO DEPT. JOB AND FAMILY
SERVICES, ET A
Defendant

CLERK OF COURTS
CUYAHOGA COUNTY

Judge: JOSE A VILLANUEVA

JOURNAL ENTRY

98 DISPOSED - FINAL

THE INSTANT MATTER COMES BEFORE THE COURT ON APPEAL FROM THE UNEMPLOYMENT COMPENSATION REVIEW COMMISSION DECISION DENYING HER APPLICATION FOR UNEMPLOYMENT COMPENSATION BENEFITS.

CLAIMANT WAS HIRED BY PROGRESSIVE CASUALTY INSURANCE COMPANY AS A TRAINEE. CLAIMANT WAS PROVIDED WITH SEVERAL WEEKS OF CLASSROOM TRAINING IN ORDER TO PREPARE HER FOR POSSIBLE PERMANENT EMPLOYMENT. UPON INITIAL HIRING ALL TRAINEES WERE ADVISED: "CANDIDATES THAT ARE HIRED WILL BE REQUIRED TO TAKE AND PASS TESTS IN TRAINING AND ON THE JOB TO SUCCESSFULLY COMPLETE TRAINING AND REMAIN IN THE POSITION." DESPITE HER BEST EFFORTS, CLAIMANT WAS UNABLE TO PASS THE TESTS AS REQUIRED BY THE EMPLOYER AND WAS DISCHARGED.

CLAIMANT FILED HER CLAIM FOR UNEMPLOYMENT COMPENSATION BENEFITS AND HER APPLICATION WAS DENIED BECAUSE SHE WAS UNABLE TO PERFORM THE WORK REQUIRED BY HER POSITION. CLAIMANT APPEALED. UPON REDETERMINATION, HER CLAIM WAS ONCE AGAIN DISALLOWED. THE DECISION WAS AFFIRMED ONCE AGAIN AFTER AN EVIDENTIARY HEARING DURING WHICH CLAIMANT OFFERED SWORN TESTIMONY.

THE HEARING OFFICER DETERMINED THAT CLAIMANT "FAILED TO MEET A REASONABLE REQUIREMENT OF THE JOB. CLAIMANT WAS AWARE OF THE FACT THAT SHE HAD TO SUCCESSFULLY PASS TESTS WHICH WERE ADMINISTERED. CLAIMANT WAS DISCHARGED BY PROGRESSIVE CASUALTY INSURANCE COMPANY FOR JUST CAUSE IN CONNECTION WITH WORK." (HEARING OFFICER'S DECISION, PAGE 3) THE INSTANT APPEAL FOLLOWED.

REVISED CODE SECTION 4141.282(H) PROVIDES THAT A COURT OF COMMON PLEAS MAY REVERSE A DECISION OF THE UNEMPLOYMENT COMPENSATION REVIEW COMMISSION ONLY "[I]F THE COURT FINDS THAT THE DECISION OF THE COMMISSION WAS UNLAWFUL, UNREASONABLE, OR AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE; OTHERWISE, THE COURT SHALL AFFIRM THE DECISION OF THE COMMISSION." FURTHERMORE, IN MAKING ITS DECISION, THE COURT IS BOUND BY THE CERTIFIED RECORD PROVIDED BY THE COMMISSION.

IT HAS BEEN HELD THAT AN EMPLOYEE WHO IS UNABLE TO PERFORM REQUIRED WORK WHEN THE EMPLOYER'S EXPECTATIONS WERE REASONABLE, MADE KNOWN TO THE EMPLOYEE AT THE TIME OF HIRE, AND WHICH EXPECTATIONS REMAINED THE SAME SINCE THE DATE OF HIRE MAY BE TERMINATED FOR JUST CAUSE. TZANGAS, PLAKOS & MANNOS V. OHIO BUREAU OF EMPLOYMENT SERVICES, 73 OHIO ST.3D 694 (1995).

AFTER A CAREFUL REVIEW OF THE RECORD AND GIVING DUE CONSIDERATION TO THE COMMISSION'S DECISION, UNDER ITS LIMITED STANDARD OF REVIEW, THE COURT CANNOT SAY THAT THE DECISION OF THE COMMISSION WAS UNLAWFUL, UNREASONABLE, OR AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE. ACCORDINGLY, THE DECISION OF THE UNEMPLOYMENT COMPENSATION REVIEW COMMISSION DENYING CLAIMANT'S APPLICATION FOR UNEMPLOYMENT COMPENSATION BENEFITS IS AFFIRMED.

FINAL.

COURT COST ASSESSED AS EACH THEIR OWN.

PURSUANT TO CIV.R. 58(B), THE CLERK OF COURTS IS DIRECTED TO SERVE THIS JUDGMENT IN A MANNER PRESCRIBED BY CIV.R. 5(B). THE CLERK MUST INDICATE ON THE DOCKET THE NAMES AND ADDRESSES OF ALL PARTIES, THE METHOD OF SERVICE, AND THE COSTS ASSOCIATED WITH THIS SERVICE.

Jose A. Villanueva 11/29/2016