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

EARL M. MILLER, III,)	CASE NO. 2016CV01565
)	
Appellant,)	JUDGE HAAS
)	
v.)	
)	
DAMON INDUSTRIES, INC., et al.,)	JUDGMENT ENTRY
)	
Appellees.)	

This appeal arises as a result of an Ohio Unemployment Compensation Review Commission's ("Review Commission") decision ultimately denying unemployment compensation benefits to Appellant, Earl M. Miller ("Claimant"), a former employee of Appellee, Damon Industries ("Employer").

Claimant has appealed the decision of the Review Commission. On, July 7, 2016, Appellant filed a Notice of Appeal with this Court. Appellant filed a brief in support of its appeal. Appellee, Director, Ohio Department of Job and Family Services ("ODJFS") filed its brief. Additionally, the Employer filed a brief.

Procedural History

On November 4, 2015, Appellee Director issued an initial determination, holding that the Claimant was discharged from employment with just cause, and disallowed Claimant's application for benefits.

Claimant appealed. In a redetermination decision issued on December 10, 2015, the Director affirmed the decision, holding that the Claimant was discharged from employment with just cause, and disallowed Claimant's application for benefits.

On February 5, 2016 and March 8, 2016, the Review Commission conducted a telephonic evidentiary hearing. In his decision, the hearing officer held that the

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Claimant had been discharged from employment with just cause, and was therefore ineligible for unemployment compensation benefits. It is from this decision that the Claimant now appeals to this Court.

Statement of Facts

Claimant worked as a sales representative for Employer, from February, 2008 until Claimant was discharged from employment on October 5, 2015.

Claimant's sales had been declining since 2012, in total, 19.3%. In 2015, Claimant had failed to attend three out of seven sales meetings by July, 2015, and five out of nine meetings by mid-September.

On September 16, 2015, Claimant was placed on probation and tolled he had 30 days in which to improve, or his job would be in jeopardy. Claimant was given specific actions to take in order to meet expectations including meetings with the vice President of Sales, preparing a written list of customers upon whom he would call, identifying cold calls, and preparing reports.

Claimant was discharged on October 5, 2015 for failure to properly complete the weekly reports regarding cold calls for the following week and results of the prior week's calls.

Standard of Review

Unemployment compensation appeals are error proceedings, not proceedings *de novo*.¹ This Court has the duty to determine whether the Review Commission's decision is supported by law and facts.² A decision supported by

¹ *Hall v. American Brake Shoe Co.* (1968), 13 Ohio St.2d 11, 13-14.

² *Irvine v. Unemp. Comp. Bd. of Review* (1985), 19 Ohio St.3d 15, 17.

some competent, credible evidence will not be reversed as being against the manifest weight of the evidence.³

In determining whether just cause exists, the UCRC “must consider whether granting benefits would serve the underlying purpose of unemployment compensation – that is providing financial assistance to individuals who become unemployed through no fault of their own.”⁴ As stated in *Loy v. Unemp. Com. Bd.*, the “just cause” test for discharge is whether the discharge was due to the culpability of the employer rather than due to circumstances beyond the employee’s control.⁵

A reviewing court may reverse “just cause” determinations “if they are unlawful, unreasonable, or against the manifest weight of the evidence.”⁶ A Review Commission’s decision cannot be reversed simply because reasonable minds might reach different conclusions.⁷

Decision Not Unlawful, Unreasonable, or Against the Manifest Weight of the Evidence

The Ohio Bureau of Employment Services can deny a claimant/employee unemployment benefits if the claimant/employee quits his job without just cause or has been discharged for just cause in connection with his work. R.C. §4141.29(D)(2)(a). “Just cause” is defined as “that which, to an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act.”⁸

³ *Angelkovski v. Buckeye Potato Chips Co.* (1983), 11 Ohio App.3d 159.

⁴ *Hartless v. Director*, ODJFS, 2011-Ohio-1374.

⁵ (1986), 30 Ohio App.3d 1204, 1206.

⁶ *Tzangas, Plakas & Mannos* (1995), 73 Ohio St.3d 694 quoting Irvine, supra.

⁷ *Id.* at 697.

⁸ *Irvine v. Unemp. Comp. Bd. of Review* (1985), 19 Ohio St.3d at 17, quoting *Peyton v. Sun T.V.* (1975), 44 Ohio App.2d 10, 12

The *Irvine* Court further stated that “each case must be considered upon its particular merits.”⁹

A reviewing court may reverse “just cause” determinations “if they are unlawful, unreasonable, or against the manifest weight of the evidence.”¹⁰ A Review Commission’s decision cannot be reversed simply because reasonable minds might reach different conclusions.¹¹

Upon review of the evidence in the administrative record and the evidence presented at the hearing, the Court finds that the hearing officer’s conclusion that Claimant was terminated with just cause is reasonable and not against the manifest weight of the evidence.

Accordingly, it is hereby

ORDERED, ADJUDGED and DECREED that the Review Commission's Decision is hereby **AFFIRMED**. This is a final appealable order and there is no just cause for delay.

IT IS SO ORDERED.


JOHN G. HAAS, JUDGE

To: Mr. Earl M. Miller, III, pro se
Atty. Susan M. Sheffield
Atty. James M. McHugh

⁹ *Id.* at 17.

¹⁰ *Tzangas, Plakas & Mannos (1995)*, 73 Ohio St.3d 694 quoting *Irvine*, supra.

¹¹ *Id.* at 697.

**STARK COUNTY CLERK OF COURTS
NOTICE OF JUDGMENT**

2016CV01565

EARL M MILLER III VS DAMION INDUSTRIES ET AL

INDIVIDUALS LISTED BELOW WERE NOTIFIED THAT AN ENTRY WHICH MAY BE A FINAL APPEALABLE ORDER HAS BEEN FILED WITH THE CLERK OF THE COMMON PLEAS COURT ON Dec 12 2016.

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