

4

IN THE COURT OF COMMON PLEAS
ASHTABULA COUNTY, OHIO

FILED

SUZANNE C. HANNA, 2016 DEC 29 10:24 AM '16)

CASE NO. 2016-CV-124

Appellant,)
JAM PENTEK)
CLERK OF COURTS)
COMMON PLEAS COURT)
ASHTABULA CO OH)

JUDGE MARIANNE SEZON

v.)

JUDGMENT ENTRY

DIRECTOR, OHIO DEPT. OF JOB AND)
FAMILY SERVICES, et al.,)

Appellees.)

This administrative appeal was filed on February 18, 2016, from the decision of the Unemployment Compensation Review Commission (UCRC) which disallowed Appellant's request for review of the Commission's prior decision denying Appellant's claim for unemployment benefits. In its decision denying Appellant's claim, the Commission found that Appellant's termination from employment with Ashtabula County Medical Center, Inc. (ACMC) was for just cause. The Court considered the Notice of Appeal filed in this Court, the record on appeal, and the briefs of the parties. Based on an agreed Judgment Entry filed on April 15, 2016, the parties agreed to have the Court render its decision after submission of the briefs. An oral hearing was not requested by the parties.

Upon appellate review of decisions rendered by the State of Ohio UCRC, the Court may only reverse those decisions which are unlawful, unreasonable, or against the manifest weight of the evidence. R. C. 4141.282(H). An unemployment compensation claimant "has the burden of proving his or her entitlement to unemployment compensation benefits under the law." *Chambers v. Director, ODJFS*, Franklin Cty. App. No. 06AP-1043, 2007-Ohio-1493.

Appellant worked for APMC from January 21, 2002 until her discharge from employment on September 11, 2015, most recently as an Operating Room Processor. The initial determination allowed Appellant's application for benefits. APMC appealed and the matter was transferred to the Review Commission pursuant to R.C. 4141.281(B). After an evidentiary hearing was conducted over the phone, the hearing officer held that Appellant was discharged from employment with just cause, and ineligible for unemployment benefits. Appellant then requested further review by the Review Commission, but the Review Commission disallowed her request. This appeal followed.

From the information presented in the record, Appellant's supervisor questioned Appellant about whether she took the proper steps to properly clean and prepare surgical instruments. Appellant "reacted in a dramatic way" and did not answer the question. Appellant entered into a verbal argument and made disrespectful statements to her supervisor. Appellant's actions, along with past infractions amounted to a pattern of unsafe behavior. The hearing officer found that Appellant's actions constituted just cause for her termination due to insubordination.

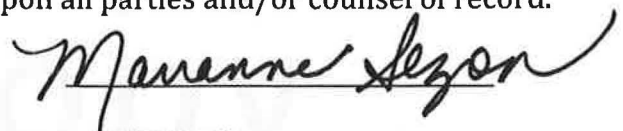
In her brief, Appellant argues that her termination from employment was without just cause, in that the hearing officer's finding of insubordination is not supported by the record. Further, Appellant argues that her actions were words of insolence, not insubordination, that her supervisor had a personal animus toward her, and that she was provoked by her supervisor. The Court does not find merit in these arguments based on a review of the record. The Court further notes that the record reflects Appellant had prior disciplinary activity including discussion with her employer about her position

performance, prior to the incident on August 31, 2015, culminating in her termination. In addition, Appellant was disrespectful to her supervisor on the date of the final incident, by entering into a verbal argument. An employee is discharged for just cause for termination when "the employee, by his actions, demonstrated an unreasonable disregard for his employer's best interests." *Kiikka v. Ohio Bur. Of Emp. Services* (1985), 21 Ohio App.3d 168, 169.

An appellate court may reverse the Unemployment Compensation Board of Review's "just cause" determination only if it is unlawful, unreasonable or against the manifest weight of the evidence. *Kovacic v. Higbee Dept. Stores*, 11th Dist. App. No. 2004-L-150, 2005-Ohio-5872, ¶ 13. The Court finds that it was reasonable for the hearing officer to conclude that Appellant's actions constituted insubordination and just cause for termination, and that the hearing officer's decision was not unlawful, unreasonable, or against the manifest weight of the evidence.

IT IS, THEREFORE, ORDERED that the January 20, 2016, Decision of the Unemployment Compensation Review Commission, which disallowed Appellant's request for review of the Commission's prior decision denying Appellant's claim for unemployment benefits, be, and the same hereby is, **AFFIRMED**. Costs are assessed against Appellant, Suzanne C. Hanna. **IT IS SO ORDERED.**

Pursuant to Civil Rule 58(B), the Clerk of this Court is directed to serve notice of this judgment and its date of entry upon the journal upon all parties and/or counsel of record.


MARIANNE SEZON, JUDGE

(18)