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

BERGER & ZAVESKY CO. (LPA), INC.
Plaintiff

OHIO DEPARTMENT OF JOB AND FAMILY
SERVICES, ET AL.
Defendant

Case No: CV-16-867240

Judge: PAMELA A BARKER

JOURNAL ENTRY

89 DIS. W/PREJ - FINAL

AFTER A REVIEW OF ALL MATERIALS AND BRIEFS FILED IN THIS MATTER, THIS COURT FINDS AS FOLLOWS: AN IN-PERSON HEARING WAS HELD IN THIS MATTER ON MAY 25, 2016 (AFTER THE CLAIMANT FILED AN APPEAL FROM THE DIRECTOR'S REDETERMINATION DISALLOWING HER APPLICATION). AT THIS HEARING THE CLAIMANT APPEARED AND TESTIFIED ON HER OWN BEHALF. ALSO PRESENT WAS ROBERT ZAVESKY, WHO REPRESENTED AND TESTIFIED ON THE EMPLOYER'S BEHALF. THE HEARING OFFICER THEN REVERSED THE DIRECTOR'S REDETERMINATION AND FOUND THAT CLAIMANT WAS DISCHARGED FROM HER EMPLOYMENT WITHOUT JUST CAUSE AND ALLOWED THE CLAIM FOR UNEMPLOYMENT BENEFITS. AFTER A DENIAL FOR A REQUEST FOR REVIEW, THIS MATTER WAS APPEALED BY THE EMPLOYER TO THIS COURT.

THE REVIEW COMMISSION DECIDED, BASED ON THE EVIDENCE PRESENTED THAT CLAIMANT WAS NOT DISCHARGED WITH JUST CAUSE. THE SOLE ISSUE BEFORE THIS COURT IS WHETHER THE DECISION OF THE REVIEW COMMISSION WAS UNREASONABLE, UNLAWFUL OR AGAINST THE MANIFEST WEIGHT OF EVIDENCE. "THE DECISION OF PURELY FACTUAL QUESTIONS IS PRIMARILY WITHIN THE PROVINCE OF THE REFEREE AND THE BOARD OF REVIEW. THE COURTS REVERSE SUCH DECISIONS ONLY WHEN FOUND TO BE CONTRARY TO LAW OR AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE". BROWN-BROCKMEYER CO. V. ROACH, 148 OHIO ST. 511, 518, 1947 OHIO LEXIS 375, *12-13 (OHIO 1947).

THIS COURT FINDS THAT THE DECISION OF THE REVIEW COMMISSION WAS NOT UNLAWFUL, UNREASONABLE, OR AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE. THE HEARING OFFICER HEARD INFORMATION REGARDING WHETHER THE CLAIMANT HAD PERMISSION FROM ANOTHER EMPLOYEE TO LOOK AT HER PERSONNEL FILE. THE HEARING OFFICER FOUND THE FIRST-HAND TESTIMONY OF THE CLAIMANT TO BE MORE CREDIBLE THAN THE HEARSAY EVIDENCE PRESENTED BY THE EMPLOYER. ACCORDINGLY, THE DECISION OF THE REVIEW COMMISSION IS HEREBY AFFIRMED. THIS CASE IS REMOVED FROM THE COURT'S ACTIVE DOCKET.

COURT COST ASSESSED TO THE PLAINTIFF(S).

Pamela A. Barker

Judge Signature

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