



D116977726

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

DANIELLE BROCK

Appellant,

vs.

BUTLER METROPOLITAN
HOUSING AUTHORITY, et al.,

Appellees.

ENTERED

JAN 12 2017

Case No. A 1603944

Judge Stephen E. Martin

FOR COURT USE ONLY

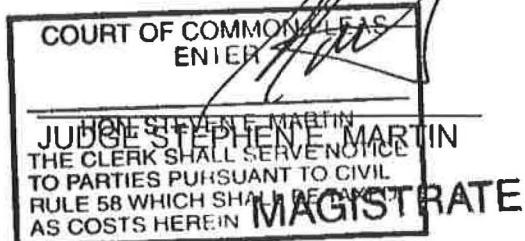
S.C.
Line #:

10

ENTRY ADOPTING THE
MAGISTRATE'S DECISION

This case came to be heard upon an appeal from the decision of the Ohio Unemployment Compensation Review Commission ("Review Commission") that disallowed benefits to the Appellant Danielle Brock. After due consideration of the certified record of the Review Commission, the legal briefs filed by the parties, oral arguments and the applicable legal authority, the Magistrate found that the decision of the Review Commission was not unlawful, unreasonable or against the manifest weight of the evidence. The objection period has expired and no objections to the decision were filed nor were there any extensions granted. WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the Magistrate's Decision is hereby affirmed.

Costs to be paid to the Appellant. This is the final appealable order. There is no just reason for delay.



JAN 11 2017

HAS SEEN

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

DANIELLE BROCK, : Case No. A 1603944
Appellant, :
vs. : Judge Stephen E. Martin
BUTLER METROPOLITAN : Magistrate Michael L. Bachman
HOUSING AUTHORITY, et al., : **MAGISTRATE'S DECISION**
Appellees. :

RNDERED THIS 13 DAY OF DECEMBER, 2016

This case is an appeal from the Unemployment Compensation Review Commission's ("Review Commission") Decision Disallowing Request for Review of the

TRACY WINKLER Hearing Officer's decision denying Danielle Brock's ("Appellant") claim for unemployment benefits on the basis that she was discharged with just cause. This appeal, filed pursuant to R.C. 4141.282, was taken under submission upon the conclusion of oral arguments, review of the administrative record and the briefs.

BACKGROUND

The Appellant filed for unemployment compensation benefits. The Appellee, Director, Ohio Department of Job and Family Services ("ODJFS"), issued an initial Determination allowing the Appellant's application for benefits. Butler Metropolitan Housing Authority ("Employer") appealed the Determination and ODJFS issued a Redetermination affirming allowance of benefits. The Employer filed an appeal from the Redetermination and ODJFS transferred jurisdiction of the appeal to the Review Commission pursuant to R.C. 4141.281(C).



An evidentiary hearing was held before a hearing officer for the Review Commission. The Hearing Officer reversed the Redetermination, and denied the Appellant's claim for unemployment benefits finding that the Appellant was fired for just cause in connection with work. The Hearing Officer made the following findings of fact:

Claim [sic] was last employed as a Housing Coordinator from February 2, 2015 to November 9, 2015. She was an hourly employee, and was a member of AFSCME, Council 8. Claimant filed a grievance, however AFSCME refused to take the matter to arbitration as the evidence did not justify further action.

On October 20, 2015 the claimant was issued a verbal warning for what was considered misconduct during a meeting where her supervisor was addressing performance related issues.

The very next day the claimant was observed placing original documents given to her by clients into a locked container where materials were placed that were to be shredded. The documents were removed and the claimant's files were checked for copies. There were 13 files that did not have copies of the originals that the claimant had placed in the shredder to be destroyed. Many of these documents were used to determine the amount of rent the building tenants were to pay.

On November 3, 2015 a pre-disciplinary hearing was conducted, and on November 9, 2015 the claimant was discharged.

Claimant was paid benefits totaling \$9,752.00 for the claims filed beginning with the week ending November 21, 2015 through April 23, 2016.¹

The Hearing Officer's reasoned:

The credible testimony supports a finding that after a verbal warning, the claimant was discovered placing original document's given to the Claimant by tenants in a locked container to be shredded. The claimant had not made duplicates of the documents and placed them in the tenant's files. These documents were used for various issues including determining how much the tenants were to pay for their rent. As the claimant was discharged for attempting to destroy original documents, she was discharged for just cause in connection with work.

¹ May 31, 2016, Decision of the Hearing Officer.

The claims filed beginning with the week ending November 21, 2015 through April 23, 2016 are disallowed and repayment is required totaling \$9,752.00²

The Appellant requested further review of the claim by the Review Commission.

The Review Commission disallowed the Appellant's request. The Appellant appealed to this Court, seeking reversal of the Review Commission's adverse decision.

STANDARD OF REVIEW

This Court shall hear the appeal upon receipt of the certified record provided by the Review Commission. If the Court finds that the Review Commission's decision was "unlawful, unreasonable, or against the manifest weight of the evidence", it shall reverse, vacate, or modify the decision, or remand the issue to the Review Commission. R.C. 4141.282(H). Otherwise, the court shall affirm the Review Commission's decision. R.C. 4141.282(H); *Williams v. Ohio Dept. of Job & Family Servs.*, 129 Ohio St. 3d 332, 2011-Ohio-2897, 951 N.E.2d 1031, ¶ 20. A reviewing court must not make factual findings or determine a witness's credibility and must affirm the Review Commission's decision if there is competent, credible evidence to support it. *Id.*

DISCUSSION

The Court has reviewed the record provided by the Review Commission, the briefs of ODJFS and the Employer, and the filings of the Appellant.³ The Appellant contends that she was not discharged for just cause. Just cause is defined by the courts as "that which, to an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act." *Irvine v. Unemp. Comp. Bd. of Review*, 19 Ohio St.3d 15, 17, 482 N.E.2d 587 (1985) quoting *Peyton v. Sun T.V.*, 44 Ohio App.2d 10, 12, 335 N.E.2d

² *Id.*

³ The Courts notes that the Appellant did not file a Reply Brief responding to Appellees' Briefs as directed by the Case Management Order.

751 (10th Dist.1975). The determination whether there is just cause for discharge depends upon the factual circumstances of each case. *Warrensville Hts. v. Jennings*, 58 Ohio St.3d 206, 207, 569 N.E.2d 489 (1991).

The Unemployment Compensation Act is designed to protect the unemployed from economic forces over which they have no control. "When an employee is at fault, he is no longer the victim of fortune's whims, but is instead directly responsible for his own predicament. Fault on the employee's part separates him from the Act's intent and the Act's protection. Thus, fault is essential to the unique chemistry of a just cause termination." *Williams* citing *Tzangas, Plakas & Mannos v. Ohio Bur. of Emp. Servs.* 73 Ohio St.3d 694, 697–698, 653 N.E.2d 1207 (1995).

In this case, the Appellant did not submit a Reply Brief disputing the Appellees' legal arguments. Appellant's filed documents and her oral argument to the Court shows that Appellant disputes that she engaged in any wrong doing. Further, she alleges that her termination was retaliation for a grievance she wanted to file and asserts that the acts she was accused of were contrived. The Court is not in the position to determine the facts of this appeal. In this matter, the hearing officer for the Review Commission is the fact-finder. The Hearing Officer found that credible testimony supported a finding that, after a verbal warning, the Appellant was discovered placing improper documents in a locked container to be shredded. The Hearing Officer specifically found that the Appellant was discharged for attempting to destroy original documents.

Upon review of the certified record of the Review Commission, this court cannot find that the decision of the Review Commission was unlawful, unreasonable or against the manifest weight of the evidence. The Court finds that the decision of the Hearing Officer is support by the record.

DECISION

The decision of the Review Commission denying the Appellant's unemployment compensation benefits is hereby AFFIRMED. The Court cannot find that the hearing officer's decision is unlawful, unreasonable or against the manifest weight.



MICHAEL L. BACHMAN
MAGISTRATE,
COURT OF COMMON PLEASE

NOTICE

Objections to the Magistrate's Decision must be filed within fourteen days of the filing date of the Magistrate's Decision. A party shall not assign as error on appeal the court's adoption of any factual finding of fact or legal conclusion, whether or not specifically designated as a finding of fact or conclusion under Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ.R. 53(D)(3)(b).

Copies sent by Clerk of Courts to:

Robin A. Jarvis, Esq.
Assistant Attorney General
1600 Carew Tower
441 Vine Street
Cincinnati, OH 45202

Edward S. Dorsey, Esq.
Wood & Lamping, LLP.
600 Vine Street, Suite 2500
Cincinnati, OH 45202

Danielle Brock, Pro Se
4122 Williamsburg Road
Cincinnati, OH 45215

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT COPIES OF THE FOREGOING DECISION HAVE BEEN SENT BY ORDINARY MAIL TO ALL PARTIES OR THEIR ATTORNEYS AS PROVIDED ABOVE.

Date: 12/13/14

Deputy Clerk: 