

COMMON PLEAS COURT
BELMONT CO OH.

STATE OF OHIO, COUNTY OF BELMONT
COURT OF COMMON PLEAS

2017 JAN 19 PM 1:29

DOCKET AND JOURNAL ENTRY

DAVID S. TROUTEN JR.
CLERK OF COURT

OSAKA OHIO INC.

Appellant

Case No. 15 CV 432

vs.

Date of Entry: January 19, 2017

KELLY R. SINURAT, et al.

Appellees

For the reasons set forth in the accompanying Judgment Journal Entry, the decision of the Unemployment Compensation Review Commission to grant the Claimant unemployment benefits is affirmed.

Case ended. Costs taxed to employer.

“Special Entry”


JOHN A. VAVRA – JUDGE

pc: *Christopher J. Gagin, Esq.*, Attorney for Appellant
Kelly R. Sinurat, Pro Se Claimant (59250 Lockwood Run Road, Shadyside, OH 43947)
Patria V. Hoskins, Esq., Attorney for Appellee ODJFS

JAV/bev

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CLERK OF COURT

Judge John A. Vavra

JUDGMENT JOURNAL ENTRY

This matter is before the Court for consideration of the Employer's appeal from the Order of the Unemployment Compensation Review Commission (UCRC). In that Order, UCRC affirmed the decision of the Hearing Officer finding that the Claimant was discharged from employment without just cause.

The Court has considered the UCRC certified transcript of the record, the Employer's Brief and the Brief filed by Appellee, Director, Ohio Department of Job and Family Services (ODJFS). The Claimant did not participate.

Based upon that review, the Court finds the Employer's appeal to be not well taken and, consequently, affirms the decision of UCRC to award the Claimant benefits as she was discharged without just cause.

The case background is not in dispute. The Claimant's initial Application for benefits was allowed based upon the ODJFS determination that she had become unemployed due to a lack of work. On appeal and following a telephone hearing, the UCRC Hearing Officer again allowed the claim. However, she modified the reason for separation from employment to a discharge without just cause. When the Employer's Request for review was disallowed, this appeal followed.

The facts as determined by the Hearing Officer including the following:

1. The Claimant missed work on May 15, 2015, and May 16, 2015;
2. Despite the Employer's assertion to the contrary, the Claimant did call in a work absence on May 16, 2015, as she was in the company of her grandmother who was ill;
3. The Employer does not have a written employee handbook;
4. The Claimant never signed for any written policies.
5. The Employer claimed that the written attendance policy referred to as the no-call, no-show policy was displayed near the restroom door;

6. By calling in on May 16, 2015, the Claimant called in her absence such that the Employer could not have considered her to have voluntarily quit her employment;
7. Moreover, by calling in her absence as mentioned, she had complied with the said policy;
8. The Employer had never disciplined the Claimant for any other reasons, as now asserted; and
9. Claimant's call to another employee rather than the owner was of no consequence, as the owner had delegated supervisory duties to that employee.

Based upon these findings, this Court can not conclude that the UCRC's determination is unlawful, unreasonable, or against the manifest weight of the evidence. That is, the Employer failed to prove that the Claimant was discharged for just cause. See, O.R.C. Chapter 4141; *Tzangas v. Ohio Bureau of Emp't Servs.*, 73 Ohio St.3d 694 (1995).

Therefore, the Court affirms the decision of UCRC that the Claimant is entitled to benefits for the reason that she was discharged from employment without just cause.

This case is ended. Costs are taxed to the Employer.



JOHN A. VAVRA – JUDGE

pc: *Christopher J. Gagin, Esq.*, Attorney for Appellant
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