

CERTIFIED COPY
COURT COMMON PLEAS
BROWN COUNTY, OHIO
CLERK: L. CLARK GRAY
DEPUTY: B. Smith



FILED
CLERK OF COURTS
BROWN COUNTY, OHIO
2017 AUG 24 PM 1:47
L. CLARK GRAY
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
CIVIL DIVISION
BROWN COUNTY, OHIO

SHIRLEY ROSS

Appellant

vs.

BENEFIT PAYMENT CONTROL, et al.

Appellees

* CASE NO. 2017-0212
* (JUDGE SCOTT T. GUSWEILER)
* DECISION AND
* FINAL JUDGMENT ENTRY
*
*

This cause having been heard on the briefs filed by Appellant Shirley Ross, appearing pro se, and Assistant Attorney General Robin A. Jarvis on behalf of Ohio Department of Job and Family Services. In addition to the briefs, the Court reviewed the entire record of the proceedings, which included testimony before a Hearing Officer.

The Appellee claims that Appellant received unemployment benefits in the amount of \$3,410.00 that she was not entitled to receive because she was not able to work.

The standard of review is set forth in Ohio Revised Code Section 4141.282(H), which provides as follows:

“REVIEW BY THE COURT OF COMMON PLEAS. The court shall hear the appeal on the certified record provided by the commission. If the court finds that the decision of the commission was unlawful, unreasonable, or against the manifest weight of the evidence, it shall reverse, vacate, or modify the decision, or remand the matter to the commission. Otherwise, the court shall affirm the decision of the commission.”

The parties are not entitled to a trial de novo. This Court may not make factual findings or determine a witness’s credibility. This Court is required to affirm the Commission’s finding if some competent, credible evidence in the record supports it. Williams v. Ohio Dept. of Job and Family Services, 129 Ohio St.3d 332, 2011-Ohio-2897. This standard applies to all reviewing


courts. Irvine v. Unemployment Comp. Board of Review (1985), 19 Ohio St.3d 15, 482 N.E.2d 587.

The Appellant originally filed for unemployment benefits due to lack of work. She received benefits at the rate of \$155.00 per week. She received benefits from May 7, 2016 through October 1, 2016. In response to an inquiry in October 2016, Appellant replied that she applied for either workers' comp or social security disability in March 2016 per her doctor's orders. This obviously raised the issue as to whether or not Appellant was actually able to work and available for and actively seeking suitable work as required by Ohio Revised Code Section 4141.29(A)(4). On two occasions, once by regular mail and once by electronic mail, the Department of Job and Family Services requested medical information from Appellant's doctor to determine whether or not Appellant was able to work and what type of work, if any, she was able to do. The medical documents were never returned. The Appellant did advise Appellee that she was granted social security disability as of October 3, 2016. She voluntarily returned her last unemployment benefit to the Department of Job and Family Services.

Clearly, the Appellant was in the position of claiming she was totally disabled for purposes of social security disability while simultaneously claiming that she was able to work and available for work for purposes of obtaining unemployment benefits. She was given two opportunities to provide adequate medical information and failed to do so. The Department of Job and Family Services was correct in finding that Appellant was not able to work nor available for work. The Hearing Officer for the Unemployment Compensation Review Commission was correct in affirming the redetermination.

The Decision below is affirmed. The Appellant was not able to work as required by law. The weeks claimed are disallowed, and repayment is required totaling \$3,410.00

THIS IS A FINAL APPEALABLE ORDER.



JUDGE SCOTT T. GUSWEILER

TO THE CLERK: Serve upon the following notice of the within Decision and Judgment Entry, and the date of entry, pursuant to Civil Rule 58(B). Note the same upon the docket:

1. Shirley Ross, *Appellant*, 4306 New Hope McKinley Road, Georgetown, OH 45121
2. Robin A. Jarvis, *Attorney for ODJFS*, 1600 Carew Tower, 441 Vine Street, Cincinnati, OH 45202
3. Benefit Payment Control, *Appellee*, Attn: Carl Prideau, 4020 E. Fifth Avenue, Columbus, OH 43219-1811