

MIAMI COUNTY
COMMON PLEAS COURT

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IN THE COMMON PLEAS COURT OF MIAMI COUNTY, OHIO
GENERAL DIVISION

PAUL F. HINKELMAN : CASE NO. 17 CV 153
APPELLANT : JUDGE WILLIAM HERMAN WOLFF, JR.
(BY ASSIGNMENT JA2164)
VS. :
TROY-MIAMI COUNTY PUBLIC : ORDER
LIBRARY, et al., :
APPELLEES :

In this administrative appeal, Paul Hinkelman asserts two claims of error:

1. The UCRC's Decision Disallowing Request for Review is unlawful, unreasonable, and against the manifest weight of the evidence because the UCRC denied Mr. Hinkelman's procedural Due Process rights after he timely proffered a prima facie good cause reason for not participating in the February 15, 2017 telephone hearing, from which the UCRC was obligated by law to provide him a forum to present evidence on the issue of good cause.
2. The UCRC Decisions are unlawful, unreasonable, and against the manifest weight of the evidence because, as the ODJFS Determination and Redetermination properly found, the record evidence demonstrates that Mr. Hinkelman was terminated without just cause.

Because of the court's resolution of the first claim of error, the second claim is moot.

The Troy-Miami County Public Library terminated Hinkelman's employment and he applied for unemployment compensation which the Library opposed. The Ohio Department of Job and Family Services determined and redetermined that Hinkelman was terminated without just cause. The Library appealed the redetermination and ODJFS transferred the matter to the Ohio Unemployment Compensation Review Commission.

On February 6, 2017, the UCRC sent a hearing notice to Hinkleman that stated in part:

If the non-appealing party fails to appear, the hearing shall go forward and a decision will be issued. A party who failed to appear has 14 days after the hearing to provide a written statement showing good cause for the non-appearance. Another hearing will be granted if good cause for the non-appearance is shown.

The hearing took place on February 15. Hinkleman failed to appear. The hearing officer took evidence from the Library and, on the basis of that evidence, reversed the ODJFS redetermination, finding that Hinkleman was terminated for just cause and concluding he was not entitled to benefits.

The appeal rights section of the UCRC decision reads as follows:

A Request for Review before the U.C. Review Commission may be filed by any interested party within twenty-one calendar days after this decision is mailed. Said twenty-one day period is calculated to end on March 14, 2017. This decision of the Review Commission will be final if not appealed within the time limit described above.

The Request for Review must be in writing and signed by the appealing party or an authorized representative. The request should set forth the reasons why the appellant disagrees with the Hearing Officer's decision. You may file your Request for Review by mailing it to the U. C. Review Commission, P.O. Box 182299, Columbus, Ohio 43218-2299, or by faxing it to (614) 387-3694.

On February 22, the day following the UCRC's mailing of the decision, Hinkelman sent the UCRC a two page, single spaced, typed fax which contained a detailed refutation of the hearing officer's findings of fact and reasoning.

Hinkelman's fax said at the outset:

I am in receipt of Notice of Decision regarding my claim for unemployment (received 2/21/17). I am disappointed by the decision and wish to **request a review of the decision.**

In reviewing the determination that I received, I feel that most of information cited in the Hearing Officer's decision was new unsubstantiated hearsay information provided by the employer. I must challenge the truthfulness and accuracy of many of the significant allegations.

First of all, I was not able to attend the hearing at the last minute due to a personal reason beyond my control. My 96 year old father who recently moved into my home required my undivided care for several hours. I did feel that the documented facts spoke for themselves and the logic applied to earlier decisions would be upheld.

The fax ended as follows:

If granted a Review, while under oath I will contest the accusations made by MS Miller with documented facts and testimony from knowledgeable sources. I would like to subpoena Julie Campbell, the Fiscal Officer, Andria Wise, Children's Librarian and Rachael Boezi, Trustee President to be at the hearing.

The UCRC disallowed Hinkelman's request for review March 8, 2017, precipitating this appeal.

The issue raised by Hinkelman's first claim of error is whether he timely requested a hearing on whether he had good cause for not attending the February 15 hearing. UCRC frames the issue as follows:

The Review Commission will grant a hearing that only addresses whether there was good cause for failing to appear

when a person asks for a hearing on good cause or expresses, in no uncertain terms, that they want another hearing. Once a request has been submitted to the Review Commission, a hearing will be scheduled to weigh in on whether or not good cause was shown for failure to appear. The Review Commission will issue a decision on the issue of good cause for failure to appear. The Claimant's statements in his Request for Review does not give any indication that he is requesting another hearing to replace the hearing he missed.

There is no doubt that Hinkelman met the deadlines contained in the hearing notice of February 6 and the appeal rights section of the February 21 decision quoted above.

Although Hinkelman might have been more artful, there is little doubt he wanted another hearing to tell his side of the story. He offered a compelling good cause reason for his failure to participate on February 15. Knowing he had to establish good cause, Hinkelman could have reasonably anticipated that the UCRC would determine the good cause issue as a threshold matter were it to "grant .. a Review."

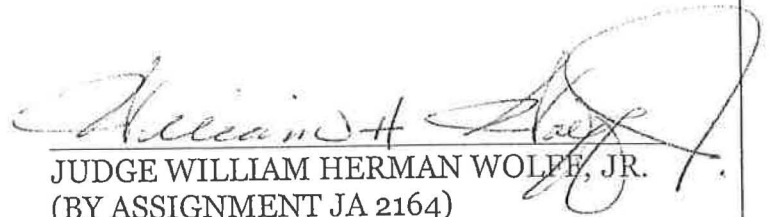
While the court does not expect the UCRC to be a mind reader, a fair reading of the February 22 fax is that Hinkelman wanted to be heard on the good cause issue and the merits.

The parties appear to agree that the issue of good cause is for the UCRC to determine.

Accordingly the court will VACATE the UCRC's March 8, 2017 Decision Disallowing Request for Review and REMAND this matter to the UCRC for consideration of the good cause issue. If the UCRC resolves this issue in Hinkelman's favor, it will afford the parties another hearing; otherwise, not.

The oral argument scheduled for November 21, 2017 at 10:00 a.m. is cancelled.

IT IS SO ORDERED.


JUDGE WILLIAM HERMAN WOLFE, JR.
(BY ASSIGNMENT JA 2164)

Copy to:
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Ohio Unemployment Compensation Review Commission