

IN THE COURT OF COMMON PLEAS
MAHONING COUNTY, OHIO

ADRIENNE A. SARDICH)

CASE NO. 2017CV164
COURTROOM NO. 1

APPELLANT)
CLERK OF COURTS
MAHONING COUNTY, OHIO

JUDGE ANTHONY D'APOLITO

VS.)

OCT 13 2017)

JUDGMENT ENTRY

DIRECTOR, ODJFS, et al.)

FILED)
ANTHONY VIVO, CLERK)

APPELLEES)

This matter has come before the Court pursuant to a timely appeal from a decision of the Ohio Unemployment Compensation Review Commission ("Review Commission") pursuant to Ohio Revised Code Section 4141.282.

In this case, the record before the Review Commission establishes that the Director, Ohio Department of Job and Family Services ("Director") issued an initial determination on September 21, 2016 that Appellant, Adrienne A. Sardich ("Sardich") was separated from employment for lack of work, and allowed Sardich's claim for benefits. On September 22, 2016, the Director vacated the allowed claim and indicated that a new determination would be issued. On September 23, 2016, the Director issued a determination that Sardich quit her employment without just cause, and disallowed Sardich's application for benefits. Sardich timely appealed the Director's determination and on November 3, 2016 the Director affirmed the determination disallowing Sardich's claim for benefits. Thereafter, Sardich filed another timely appeal of the Director's redetermination decision and the matter was transferred to the Review Commission on November 21, 2016.



On November 25, 2016, Notice of Hearing was issued to Sardich. The hearing before the Review Commission was set for December 6, 2016. However, Sardich failed to appear at the hearing, via telephone, and the claim was dismissed.

On the same morning as the scheduled hearing at 11:14 a.m., Sardich sent an email to the Review Commission and made a request to vacate the dismissal and explained that she misread the Notice of Hearing and erroneously expected to be called at 9:45 a.m. rather than having to initiate the call. On December 7, 2016, Sardich's request to vacate the dismissal was denied and Sardich filed a request for hearing on the issue of good cause for failure to attend the hearing. An evidentiary hearing was held on December 20, 2016.

At the evidentiary hearing, Sardich testified that she did receive the Notice of Hearing and read through the instructions. However, Sardich explained that due to her late stage of pregnancy and financial strains, she misinterpreted the instructions and expected the Review Commission to call her at the set time of the hearing. Sardich admitted she made a mistake and asked that she be given an opportunity to have a hearing on the merits.

The hearing officer issued a decision on December 21, 2016 and determined that Sardich did not establish good cause for failing to attend the hearing, and therefore the Dismissal of Claimant's appeal became final. Sardich filed her timely appeal with the Court on January 20, 2017.

The sole issue before the Court is whether the hearing officer's decision that Sardich did not establish "good cause" for failing to appear, via telephone, at the

December 6, 2016 hearing was unlawful, unreasonable or against the manifest weight of the evidence.

The procedure for reviewing a Review Commission's decision is plainly set forth in R.C. 4141.282(H). To reverse, vacate or remand the matter, this Court must find that the decision of the Review Commission was unlawful, unreasonable or against the manifest weight of the evidence. In conducting the review, it has long been established that the reviewing court is not permitted to substitute its judgment for that of the Review Commission. Rather, this Court is limited to determining whether there is evidence in the record to support the Review Commission's decision.

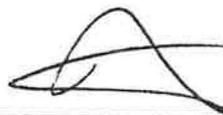
While this Court cannot make factual determinations or judge credibility, the record contains no evidence that Sardich's failure to appear at the hearing was the fault of anyone else besides her own. Furthermore, the record contains no evidence that Sardich's failure to appear at the hearing was due to unforeseen or changed circumstance; Sardich testified that she received and read the instructions for appearing at the hearing. The Review Commission heard the testimony and determined "good cause" had not been established. This Court finds such a decision was supported by the evidence.

The record does not support Appellant's position that the Review Commission hearing officer's decision was unlawful, unreasonable or against the manifest weight of the evidence. It is not for this Court to substitute its judgment for that of the Review Commission merely because this Court may have reached a different result.

After a review of the record herein, the Court finds that the Review Commission's factual determinations are supported by competent, credible evidence. The Court further finds that the Review Commission's Decision is not unlawful, unreasonable or against

the manifest weight of the evidence. Therefore, the Decision of the Ohio Unemployment Compensation Review Commission is hereby affirmed.

DATE: 10-11-17



JUDGE ANTHONY M. D'APOLITO

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UNREPRESENTED PARTIES