

IN THE COURT OF COMMON PLEAS  
MEDINA COUNTY, OHIO

COMMON PLEAS COURT  
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FILED  
DAVID B. WADSWORTH  
MEDINA COUNTY  
CLERK OF COURTS

BRUCE CORLETT,

Appellant,

vs.

DIRECTOR, OHIO DEPARTMENT OF  
JOB AND FAMILY SERVICES, et al.,

Appellees.

) CASE NO.: 11CIV0782

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JUDGE COLLIER

JOURNAL ENTRY WITH  
INSTRUCTIONS FOR SERVICE

This matter is before the Court on the Appellant Bruce Corlett's appeal of the decision of the Ohio Unemployment Compensation Review Commission (hereinafter, the "UCRC"), wherein the UCRC denied the Appellant's claim for unemployment benefits. As of December 20, 2011, the Appellant and Appellees had fully submitted their briefs in this matter.

The Appellant argues the decision of the UCRC, disallowing the Appellant's claim for unemployment benefits, was unlawful, unreasonable and against the weight of the evidence. The matter before the Court is an administrative appeal pursuant to R.C 4141.282. The matter was scheduled for non-oral decision on January 6, 2012.

In conducting a review of this matter, the Court is limited to a review of the record below to determine whether there exists competent, credible evidence going to all the essential elements of the case to support the UCRC's decision. A reviewing Court is not permitted to substitute its judgment for that of the UCRC. Upon consideration of the pleadings, briefs, and upon careful independent review of the complete record of proceedings provided to the Court in this matter, the Court finds as follows:

The Appellant filed an "Application for Determination of Benefit Rights" for unemployment benefits. The application was approved with a benefit year beginning January

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10, 2010. On September 21, 2010, a Redetermination was issued and it was determined that the Appellant was separated from his employment with Fechko Excavating, Inc. due to lack of work. Thereafter, on October 7, 2010, Fechko filed an appeal from the Redetermination. On February 9, 2011, a hearing was held before a UCRC Hearing Officer. On February 11, 2011, the UCRC issued a Decision making the following findings of fact:

Claimant [Bruce Corlett] worked for Fechko Excavating, Inc. from May 9, 2005, until July 29, 2010, when he quit without notice. Claimant was an excavator and worked full time. Employees are expected to travel to job sites in Ohio. The employer pays room and board. Claimant was working in Solon, Ohio and then sent to a job in Lorain. He was being paid \$42.00 an hour. His next job was in Defiance, Ohio. Claimant did not show up or call off. Claimant testified he could not travel overnight because there is no one to care for his pets. He called Lisa Iseli, Human Resources, during the first week of August to report his hours for the previous week and told her it was the last time he would be calling in for his wages. She asked if he wanted to speak to the owner and he said he did not want to.

The UCRC then found as follows:

Claimant argues there was an understanding between him and the owner that he would not have to travel overnight for work, that the owner reneged and the claimant was not obligated to take the overnight job. The owner testified that there was no such agreement. Claimant did not call to speak to the owner to protest the overnight assignment if in fact there was such an agreement but rather simply did not show up or call off. He later called to say he would not be reporting any more wages. Under these circumstances, the Hearing Officer finds claimant quit his employment and the quit was without just cause. Based upon this finding, claimant received benefits to which he was not entitled and is required to repay those benefits to The Ohio Department of Job and Family Services.

On April 27, the UCRC Review Commission denied the Appellant's request for review. On May 20, 2011, the Appellant timely appealed the decision of the UCRC to this Court.

Upon consideration of the pleadings, briefs, and upon careful independent review of the complete record of proceedings provided to the Court in this matter, the Court finds no error of law or fact. The administrative decision, when considered as a whole, is properly based upon consideration of all the evidence and law presented. Furthermore, the Court cannot substitute its

judgment for that of the UCRC. The UCRC considered evidence from the Appellant in support of his position and objections from the Appellees in opposition to the Appellant receiving unemployment benefits. The UCRC then weighed the evidence before ultimately coming to the decision to disallow the Appellant's claim for unemployment benefits.

The UCRC was not required under the law to reach a particular decision with regard to this particular application for unemployment benefits. The UCRC was only required to support its decision with competent, credible evidence going to all the essential elements of the case. The record and content of the UCRC Hearing transcript establishes that the UCRC's decision was not unlawful, unreasonable or against the weight of the evidence and there was sufficient evidence to support a finding that the Appellant quit his work without just cause. The UCRC considered the testimony of the parties and thereafter came to a decision based on all the facts.

Under R.C. 4141.29(D)(2)(a), an employee may not be eligible for unemployment benefits under certain circumstances, including "if the employee has quit without just cause, or if the employer discharged the employee for just cause in connection with the employee's work." *Lorain Cty. Aud. v. Ohio Unemp. Rev. Comm.*, 113 Ohio St. 3d 124; 2007-Ohio-1247; 863 N.E.2d 133, ¶15. The Ohio Supreme Court defined "just cause" 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, 17-18, 482 N.E.2d 587 (1985). A reviewing Court "must defer to the findings of the UCRC with respect to purely factual issues that concern the credibility of witnesses and the weight of conflicting evidence." *Lafayette Twp. v. Sheppard*, 9<sup>th</sup> Dist. No. 10CA0124-M, 2011-Ohio-6199, ¶11, citing *Tzangas, Plakas & Mannos v. Ohio Bur. of Emp. Serv.*, 73 Ohio St.3d 694, 653 N.E.2d 1207 (1995).

The UCRC found that the employer's testimony was more credible than the Appellant's

testimony regarding the alleged understanding or employment agreement. The UCRC found there was no agreement or understanding that the Appellant would not have to travel for employment. Further the UCRC found that even if there was such an agreement or understanding, the Appellant did not protest the overnight assignment, but instead simply failed to show up or call off. The UCRC was entitled to find that based on the facts presented, the Appellant's explanation did not make sense. If there was an agreement or understanding with the employer that the Appellant would not have to travel for work, the Appellant arguably would have articulated this to the employer and fought to enforce the agreement, rather than simply not showing up to the job.

Subsequently, the Appellant had the opportunity to discuss the alleged agreement with the employer but instead chose to tell the Human Resource department that "this was the last time he would be calling for his wages," thereby effectively quitting his job. There was no evidence in this case that the employer tried to terminate the Appellant based on his failure to appear for work. In fact, it appears that the Appellant's employment with Fechko was terminated solely on the basis of the Appellant voluntarily quitting his job without first bringing his understanding of the alleged employment agreement to the attention of the employer. Under the facts of this case, the Court find the decision of the UCRC was supported with competent, credible evidence going to all the essential elements of the case. Therefore, this Court is required to affirm the decision in full.

Accordingly, the decision of the UCRC to disallow the Appellant's claim for unemployment benefits due to the Appellant quitting his job without just cause is affirmed in full.

Costs are hereby assessed to the Appellant.

IT IS SO ORDERED.

  
CHRISTOPHER J. COLLIER  
JUDGE

The Clerk of Courts is instructed to send notice of the foregoing Journal Entry to the following parties or their counsel of record.

- Atty. Jones
- Atty. MacQueeney
- Atty. Chandler

Notice of this Entry was mailed by the Clerk of Courts on 01-10-12.

  
DEPUTY CLERK OF COURT

**"FINAL APPEALABLE ORDER"**