

Compensation Review Commission held a telephone conference on April 26, 2010. In a decision mailed August 30, 2010, the hearing officer reversed the November 16, 2009 redetermination and found that Satelle was terminated for good cause. The Review Commission disallowed a request for further review on October 10, 2010. The administrative appeal was timely filed in this court on November 4, 2010. The Hearing Officer's Decision by the Unemployment Compensation Review Commission found as follows.

The credible evidence revealed that claimant was expected to work accounts, visit the dealers with the accounts and accurately record mileage for the accounts he visited. Claimant was also expected to schedule appointments with customers.

Claimant did not have appointments scheduled with customers as he asserted, he was not working the accounts and he falsified the mileage report which reflected that he went to visit customers that he did not visit. According to the evidence, claimant's conduct was in violation of company policies and demonstrated an unreasonable disregard for the best interest of the employer. Therefore, the Hearing Officer finds that claimant was discharged from his employment with Goodman Distribution, Inc. for just cause in connection with work.

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.

Before the court will rule on the underlying appeal, it will address Appellee's motion to strike. Appellee argues that Appellant seeks to introduce new evidence by filing a memorandum dated July 31, 2009 attached to his reply brief of March 15, 2011. Appellant Satelle did not file a reply to the motion. The Ninth District has ruled that, "On appeal to the court of common pleas, 'the appeal shall be heard upon [the] record certified by the [review] commission.' With respect to this provision, the Ohio Supreme Court has stated 'the Court of Common Pleas is not authorized to receive evidence but the appeal shall be heard upon such record certified by the board.' *Coughlin v Ohio Bureau of Empl. Servs.*, 2002 Ohio 1637 citing; *Hall v American Brake Shoe Co.* (1968), 13 Ohio St. 2d 11, 14; Ohio Revised Code §4141.28(N)(1). As the memorandum in question is not a part of the certified record,

Appellee's motion to strike is hereby **GRANTED**. The memorandum in question is not taken into consideration in the following.

The role of the court of common pleas upon appeal from the Unemployment Compensation Review Commission is limited to determining whether the Review Commission's decision is supported by evidence in the record. A decision supported by competent, credible evidence going to all essential elements of the dispute will not be reversed as being against the manifest weight of the evidence. See Ohio Revised Code § 4141.282(H); *Angelkovski v Buckeye Potato Chips Co.* (1983), 11 Ohio App. 3d 159. The jurisdiction of the court is limited to a determination of whether the Commission's decision was unlawful, unreasonable, or against the manifest weight of the evidence. Ohio Revised Code § 4141.282(H); *Tzangas, Plakkas & Mannos v Ohio Bur. Of Emp. Serv.* (1995), 73 Ohio St. 3d 694 at 696-697; *Irvine v Unemp. Comp. Bd. Of Review* (1985), 19 Ohio St. 3d 15 at 17; *DiGiannantoni v Wedgewater Animal Hospital, Inc.* (1996), 109 Ohio App.3d 300 at 305. The common pleas court must give due deference to the Commission's resolution of evidentiary conflicts and the court may not substitute its judgment for that of the Commission. If, at the agency level, a preponderance of reliable, probative, and substantial evidence exists, the common pleas court must affirm the agency's decision. *Budd Co. v Mercer* (1984), 14 Ohio App.3d 269.

Upon appeal, a court may reverse such decisions only if they are unlawful, unreasonable, or against the manifest weight of the evidence. Ohio Revised Code §4141.282(H); *Tzangas, supra*; *Irvine, supra*. If the evidence supports the Review Commission's conclusion, a reviewing court may not substitute its own findings of fact. *Durgan v Ohio Bur. Of Emp. Serv.* (1996), 110 Ohio App.3d 545 at 551. In this case, the hearing officer found the testimony of Christopher Martin, regional manager for Goodman

Distribution, Inc., credible and ruled accordingly. Under Ohio law, "Where conflicting testimony exists, the Ohio Unemployment Compensation Review Commission, not the court, resolves the conflicts and determines the credibility of the witnesses." *Cottrell v Dir., Ohio Dep't of Job & Family Services*, 2006 Ohio 793.

After a thorough review of the record, the court finds that there was competent, credible evidence to support the conclusions made below. The record contains sufficient credible evidence that Appellant Satelle was discharged by his employer with just cause. The court is unable to find that the Review Commission's decision was unlawful, unreasonable or against the manifest weight of the evidence.

The decision of the Ohio Unemployment Compensation Review Commission is **AFFIRMED**. This administrative appeal is **DISMISSED** with prejudice.

This shall serve as a final appealable order. There is no just cause for delay.

IT IS SO ORDERED.



JUDGE AMY CORRIGALL JONES