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IN THE COURT OF COMMON PLEAS
RICHLAND COUNTY, OHIO

RICHLAND COUNTY
CLERK OF COURTS
FILED

2012 MAR 08 AM 10:28

LINDA H. FRARY
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JOHN A. BOND, et al.)
)
Appellees,)
)
v.)
)
MILLIRON IRON & METAL, INC,)
)
Appellant.)

CASE NO. 11 CV 591

Decision on Administrative
Appeal

This administrative case was brought before the court by the appeal of employer Milliron Iron & Metal, Inc. ("Milliron") from the decision of the Unemployment Compensation Review Commission holding that Mr. Bond was discharged by Milliron without just cause and that he was therefore eligible for unemployment benefits.

This case concerns Mr. Bond's claim for unemployment compensation following his discharge from Milliron on July 27, 2010. On September 15, 2010, the Director of the Department of Job and Family Services issued a decision disallowing Mr. Bond's application for benefits, finding that Mr. Bond was discharged for just cause in connection with work. On September 30, 2010, following Mr. Bond's appeal, the Department of Job and Family Services transferred jurisdiction to the Unemployment Compensation Review Commission, and a hearing was subsequently held on February 14, 2011. On February 24, 2011, the hearing officer determined that Mr. Bond was discharged without just cause. The Commission denied the request for further appeal on April 28, 2011.

Journalized on the court's
docket on Mar 8, 2012


Deputy Clerk

The court has reviewed the factual record, the arguments of the parties, and the relevant Ohio law in considering this appeal.

Background:

From March 31, 2006 until July 27, 2010, Mr. Bond was employed by Milliron as a maintenance worker and loader operator. On the day that he was hired, Mr. Bond was given a company policy manual, which set forth the company's discipline policies. The manual's section entitled Standards of Conduct states that "certain conducts have been established as unacceptable and may be grounds for immediate dismissal without benefit of progressive disciplinary measures." Representative examples are then provided, including "gross negligence in the performance of assigned duties or in the care or use of company property/services" and "willful destruction of company property or equipment."

On July 26, 2010, Mr. Bond was told by his supervisor, George Will, to stop his work in one area of the yard after getting the loader stuck in a large hole. Mr. Bond was told instead to return to pushing material in a different area of the yard. Upon being told this, he lost his temper and drove the loader in reverse at a high rate of speed. Seeing that Mr. Bond had lost his temper, Mr. Will instructed him to take a lunch break. Mr. Bond then shut down the loader without allowing it to idle, and the loader overheated and was out of service for 45 minutes. When Mr. Bond returned from lunch, Mr. Will told him to take the rest of the day off and then discharged him the following day.

Analysis:

An individual is not eligible for unemployment benefits if he has been discharged for just cause in connection with work.¹ Following the administrative hearing, the Commission found that Milliron failed to establish that Mr. Bond's actions caused the

¹ Ohio Rev. Code § 4141.29 (D)(2)(a).

need to repair the loader. The Commission also found that Milliron failed to follow a progressive discipline policy or show that Mr. Bond's conduct was severe enough to warrant immediate discharge. The Commission determined, therefore, that Mr. Bond was discharged without just cause.

Under Ohio Rev. Code § 4141.282 (H), this court must hear this appeal on the certified record provided by the Commission. This statute also provides that if the court finds the decision of the Commission to be unlawful, unreasonable, or against the manifest weight of the evidence, it shall reverse, vacate, or modify the decision, or it may remand the matter to the Commission.

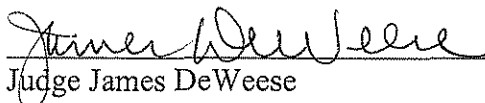
In her decision, the hearing officer found that Mr. Bond "became frustrated and drove the loader backwards around the yard . . ." and that Mr. Bond "backed up the loader and turned it off without letting it idle." The hearing officer also found that "[t]he loader overheated and was out of service for 45 minutes." Based upon the hearing testimony as well as upon the hearing officer's factual findings, it is unreasonable to require that Milliron prove the absence of damage to the loader prior to Mr. Bond's actions. According to the findings of fact and the record, Mr. Bond was operating a working loader on July 26, 2010. After he drove the loader backwards around the yard and turned it off without letting it idle, it overheated. These facts demonstrate that Mr. Bond exhibited gross negligence in the use of company property. According to Milliron's company policy, which Mr. Bond received upon accepting his employment, such gross negligence is grounds for immediate discharge. Accordingly, the Commission's decision that Mr. Bond was discharged without just cause was unreasonable and against the manifest weight of the evidence.

Therefore, the court reverses the February 24, 2011 decision of the Commission that Mr. Bond was terminated without just cause. This court finds that the evidence requires a finding that Mr. Bond was terminated with just cause and is not entitled to employment compensation benefits.

Judgment Entry

It is therefore ordered that:

1. The February 24, 2011 decision of the Commission is hereby reversed, and judgment is entered in favor of appellant Milliron that Mr. Bond was discharged for just cause and is not eligible for unemployment benefits;
2. Costs are taxed to appellees;
3. The clerk shall serve copies of this order on John A. Bond and on attorneys John Tarkowsky and Patria V. Hoskins telling them the date it was entered on the court's journal.



Judge James DeWeese