



LORAIN COUNTY COURT OF COMMON PLEAS  
LORAIN COUNTY JUSTICE CENTER  
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CASE NO. 11CV172676  
Hon. Judge Mark A Betleski

BRET A WILLIAMS  
VS.  
MODERN POURED WALLS INC

\* \* \* \* \* NOTICE \* \* \* \* \*

*Pursuant to Civil Rule 58 (B), Notice is hereby given that judgment was rendered in the above captioned case and was entered upon the journal of the Court on JULY 18, 2012*

*Distribution: All parties or attorneys of record.*

Online case information may be found at:  
<http://www.loraincounty.com/clerk/>

\*11CV172676\*



FILED  
LORAIN COUNTY

2012 JUL 18 A 10:08

**LORAIN COUNTY COURT OF COMMON PLEAS**

LORAIN COUNTY, OHIO  
RON NABAKOWSKI, Clerk  
JOURNAL ENTRY  
Mark A. Betleski, Judge

CLERK OF COMMON PLEAS  
RON NABAKOWSKI

Date 7/17/12

Case No. 11CV172676

BRET A WILLIAMS

Plaintiff

JOHN J GILL

Plaintiff's Attorney

(440)323-2201

VS

MODERN POURED WALLS INC

Defendant

STEPHEN P BOND

Defendant's Attorney

(440)934-8080

The Appellant Bret A. Williams (Williams) appeal from the final decision of the Ohio Unemployment Compensation Review Commission (UCRC) denying his claim for unemployment benefits came before the court for consideration. The court has reviewed the Appellant's brief on the merits, Appellee Director, Ohio Department of Job and Family Service's (ODJFS) brief in opposition, Appellee Modern Poured Walls Inc.'s (MPW) brief in opposition and the certified transcript of the record of proceedings.

In this case the UCRC held Williams voluntarily quit his employment at MPW without just cause under R.C. 4141.29(D)(2)(a). The determination of what constitutes "just cause" for discharge and/or quit has been defined as "that which, to an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act". *Irvine v. Unemp. Bd. of Rev.* (1985), 19 Ohio St. 3d 15, 16-18. The record of proceedings indicates on August 27, 2010 Williams sent a letter to MPW effectively terminating his employment and resigning.

The burden of proof in a statutory unemployment case is on the employee to prove that he was either discharged without just cause, or quit for cause and is entitled to benefits under R.C. 4141.29(D)(2)(a). *Irvine v. Unemp. Bd. Of Rev.* (1985), 19 Ohio St. 3d 15. The statutory standard of review to be applied by this court is set forth in R.C. 4141.282 (H). If the court finds that the decision of the commission was unlawful, unreasonable, or against the manifest weight of the evidence it shall reverse, vacate, or modify the decision, or remand the matter to the commission. Otherwise, the court shall affirm the decision of the commission. As the trier of fact, the UCRC and its hearing officers are vested with the power to review the evidence and to believe or disbelieve the testimony of witnesses. The common pleas courts must defer to the UCRC with respect to purely factual issues that concern the credibility of witnesses and the weight of conflicting evidence. *Tzangas, Plakas & Mannos v. OBES*, 73 Ohio St. 3d 694.

The evidence in the certified record established Williams elected to terminate his employment and resign as documented in his letter of August 27, 2010. Williams admitted to the hearing officer his letter was a letter of resignation. Williams never lost any salary or benefits after his meeting with Mr. Smith on August 12, 2010. Williams claimed he did not receive bonuses in the years 2008 and 2009 but never raised the issue with his employer until after he resigned. Although Williams did have a reduction in some of his duties he did nothing to address the issue with his employer prior to his resignation.

Although Williams had an employment contract with MPW the record is void of any request by him for a cure for any of the alleged breaches. It is firmly established under Ohio law that a private employment contract and/or settlement agreement entered into between an employer and employee, has no legal effect upon the UCRC with respect to its independent adjudication of unemployment claims under the statutory eligibility requirements set forth in R.C. 4141.29(D)(2)(a). Williams position the UCRC must interpret the terms of his employment contract to decide whether he is eligible for unemployment benefits instead of relying on the eligibility requirements of R.C. 4141.29(D)(2)(a) has been rejected by the Supreme Court of Ohio and Court of Appeals for the Ninth Appellate District. *Youghioghney & Ohio Coal Co. v. Oszust* (1986), 23 Ohio St. 3d 39 and *Westphal v. ODJFS*, 9<sup>th</sup> Dist. No. 09CA9602, 2010 Ohio190.

According to the certified record Williams was given every opportunity to subpoena witnesses, documents and evidence and made aware of his right to do so. Williams for whatever reason failed to do so. There is no evidence in the record anyone prohibited Williams from presenting evidence or proving his case.

Based upon the evidence in the certified record in this case, the Decision of the UCRC that Williams voluntarily quit his employment at MPW without just cause under R.C. 4141.29(D)(2)(a) was not unlawful, unreasonable or against the manifest weight of the evidence and is hereby affirmed pursuant to R.C. 4141.282 (H).

Final judgment is hereby granted in favor of the Appellees. Costs to the Appellant. This is a final appealable order. Case closed.



Mark-A. Betleski

cc: John Gill  
Stephen Bond  
Michael DeWine, Patrick MacQueeney

TO THE CLERK: THIS IS A FINAL  
APPEALABLE ORDER  
PLEASE SERVE UPON ALL PARTIES NOT IN  
DEFAULT FOR FAILURE TO APPEAR,  
NOTICE OF THE JUDGMENT AND  
ITS DATE OF ENTRY UPON THE JOURNAL.