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BY _____ CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
SCIOTO COUNTY, OHIO

SCIOTO COUNTY
OHIO
FILED

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Asia D. White
CLERK OF COURTS

SCIOTO COUNTY AUDITOR *

Appellant *

vs. *

OHIO DEPARTMENT OF JOB AND *
FAMILY SERVICES, DIRECTOR *

Appellee *

Case No. 12-CIF-~~004~~ *

Judge Howard H. Harcha, III *

DECISION AND JUDGMENT ENTRY *

This matter comes before the Court on the appeal of the Scioto County Auditor of a determination by the Ohio Department of Job and Family Services Determination No. 223675685 finding that the Scioto County Auditor is responsible for the payment of \$10,504.

Both parties have submitted briefs and Ohio Revised Code §4141.282 provides that a Court shall affirm the determination of the Ohio Unemployment Compensation Review Commission unless the Court finds the Review Commission's decision was unlawful, unreasonable or against the manifest weight of the evidence.

The underlying facts of this case do not appear to be in dispute. Mr. James Farris resigned from his employment with the Scioto County Engineer on January 6, 2011. His resignation was the result a disciplinary action and Mr. Harris' attempted to claim unemployment compensation benefits and his application was properly denied.. Mr. Farris subsequently went to work for Boone Coleman Construction and was eventually laid off as a result of a lack of

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work. Mr. Farris, at that time, made a second application for unemployment benefits and the application was granted.

Unemployment benefits are calculated on a benefit year basis as defined in O.R.C.§4141.01(R)(1). When there is more than one (1) employer in a given benefit year, unemployment benefits compensation amounts are pro-rated between the various employers.

This Court finds the Scioto County Auditor is a reimbursing employer rather than a contributing employer. The parties, in their briefs, have adequately informed this Court as to the differences between these two types of employers. The parties have also informed this Court of Ohio unemployment compensation law and the circumstances under which payments and prorations may be charged to the State's mutualized account.

The issue presented in this appeal is whether the charges for Mr. Farris' unemployment which are the responsibility of the Scioto County Auditor should be charged to this mutualized account.

Under O.R.C.§4141.29(H), if an employer is a reimbursing employer for the purposes of unemployment compensation benefits, no charge can be made to the state's utualized account for benefits, unless pursuant to O.R.C.§4141.24(D)(2) it is finally determined by a court on appeal that the employer's account is not chargeable for such benefits.

In this case, the Scioto County Auditor is asking this Court to find that it should not be chargeable for the benefits extended to

its former employee, James L. Farris, because he quit employment with the Scioto County Engineer ("Scioto County Engineer") without just cause. The Director, Ohio Department of Job and Family Services ("Director") is asking this Court to uphold the decision of the hearing officer below, and find that benefits are not properly charged to the mutualized account of a reimbursing employer for reasons of public policy.

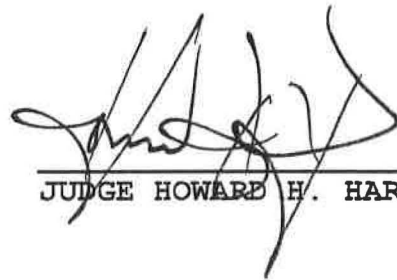
Ohio Revised Code§4141.29(H) provides that, if a claimant is disqualified because he quit work without just cause, "then benefits that may become payable to such claimant, which are chargeable to the account of the employer from whom the individual was separated under such conditions, shall be charged to the mutualized account..., provided that no charge shall be made to the mutualized account for benefits chargeable to a reimbursing employer". Ohio Revised Code§4141.29(H) also provides that, "in the case of reimbursing employer, the director shall refund or credit to the account of the reimbursing employer any over-paid benefits that are recovered".

This Court finds Mr. Farris, under Ohio law, was entitled to unemployment benefits when he was laid off by Boone Coleman Construction. This Court finds this was not an overpayment to Mr. Farris and under Ohio law these benefits would be prorated between his previous employers.

This Court finds the Scioto County Auditor is partially responsible for the claim of Mr. Farris and the charges to the Scioto

County Auditor. Ohio law does not allow these benefits to be charged to the State's mutualized account. This Court finds the Review Commission's decision was not unlawful, unreasonable or against the manifest weight of the evidence. The Court finds the Scioto County Auditor's appeal is not well taken and is dismissed. Costs of these proceedings are assessed to the appellant, Scioto County Auditor. The Court further finds there is no just cause for delay and this is a final appealable order.

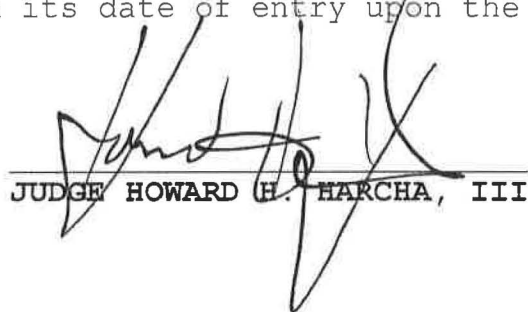
IT IS SO ORDERED.



JUDGE HOWARD H. HARCHA, III

TO THE CLERK:

Please serve upon all parties not in default for failure to appear notice of this judgment and its date of entry upon the journal pursuant to Ohio Civil Rule 58(B).



JUDGE HOWARD H. HARCHA, III

cc:

Danielle Parker

Assistant Scioto County Prosecutor Appellant

Yvonne Tertel

Assistant Attorney General for Appellee