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LORAIN COUNTY

2012 OCT 23 A 11:17

LORAIN COUNTY COURT OF COMMON PLEAS

LORAIN COUNTY, OHIO  
RON NABAKOWSKI, Clerk

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JOURNAL ENTRY  
Mark A. Betleski, Judge

Date 10/17/12

Case No. 11CV172615

MATTHEW A ERICKSON

Plaintiff

PRO SE

Plaintiff's Attorney

VS

OHIO DEPARTMENT OF JOB & FAMILY  
SERVICES

Defendant

MICHELLE T SUTTER

Defendant's Attorney (614)995-5952

The Appellant Matthew A. Erickson's appeal from the final decision of the Ohio Unemployment Compensation Review Commission (UCRC) denying Appellant's claim for Trade Readjustment Assistance (TRA) benefits came before the court for consideration. The court has reviewed the Appellant's brief and the Appellee Director, Ohio Department of Job and Family Services (ODJFS) brief in opposition along with the certified transcript of the record of proceedings.

The sole issue is whether the Appellant timely filed an appeal to the Director's determination denying him TRA benefits. After multiple hearings it was determined the Appellant instructed the ODJFS to notify him of unemployment matters by email correspondence. The Appellant confirmed he did in fact receive email correspondence from the ODJFS regarding his claim and did receive the notification of disallowance but was busy with school and overlooked it. Appellant's claim was denied for his failure to file a timely appeal and the UCRC affirmed the denial.

On appeal it is the obligation of the claimant to point to evidence in the record supporting his allegations. *Lynch v. City of Youngstown* (1966), 115 Ohio App. 3d 485. A pro se claimant is bound to the same rules and procedures as those litigants that retain counsel. *Meyers v. First National Bank of Cincinnati* (1981), 3 Ohio App. 3d 209.

The statutory standard of review that must be applied by the court when considering an appeal of a decision rendered by the UCRC is set out in R.C.4141.282(H). That section provides :

The court shall hear the appeal upon the certified record provided by the commission. If the court finds 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.

This strict standard of review was reiterated in the leading case of Tzangas, Plakas & Mannos v. Ohio Bur. of Emp. Serv. (1995), 73 Ohio St. 3d 694. The determination of factual issues is primarily a matter for the hearing officer and the Review Commission. Deference should be given to the Commission's determination of purely factual issues that concern the credibility of witnesses and the weight of conflicting evidence. Angelkovski v. Buckeye Potato Chips (1983), 11 Ohio App. 3d 159, 162.

In this case the evidence is clear the Appellant failed to file his appeal within the twenty-one day time period set out in R.C.4141.281 (A). The timely filing of an appeal is a prerequisite to subject matter jurisdiction for the Director or the UCRC. Holmes v. Union Gospel Press (1980), 64 Ohio St. 2d 187. There were no exceptions established by the Appellant entitling him to an extension pursuant to R.C.4141.281 (D)(9).

After due consideration of the briefs and arguments before it, it is the finding of this court that the decision of the UCRC was not unlawful, unreasonable or against the manifest weight of the evidence and is hereby affirmed.

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



Mark A. Betieski

cc: Matthew Erickson  
Michelle Sutter



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