

IN THE COURT OF COMMON PLEAS
LAWRENCE COUNTY, OHIO

~~FILED~~
COMMON PLEAS COURT

2012 NOV 29 PM 3: 14

EARSIE G. MANN,
APPELLANT,

DECISION AND
JUDGMENT ENTERED
MIKE PATTERSON
LAWRENCE COUNTY
CLERK OF COURTS

-VS-

CASE NO. 11-OC-786

DIRECTOR, OHIO DEPT. OF
JOB AND FAMILY SERVICES,
ET. AL.,

APPELLEES.

This matter is before the Court upon objection to the Magistrate's Decision, journalized October 31, 2012, and reversing the Unemployment Compensation Review Commission, which held that the Claimant/Appellant (Earsie G. Mann) was discharged for just cause in connection with work and was therefore not entitled to unemployment compensation benefits.

The matter was submitted upon briefs and without oral argument. Ohio Revised Code Section 4141.282(H) specifies the standard of review to be applied by the Common Pleas Court in appeals from the Review Commission to be "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." Accordingly, this Court does not conduct a de-novo review of the case, but proceeds directly to the decision of the Unemployment Compensation Review Commission, decision of the Magistrate, and the briefing of the objections to the aforementioned Magistrate's Decision.

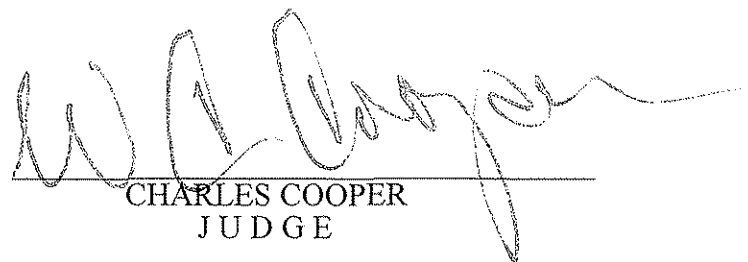
The essence of this case goes to the scenario that the Appellant was unable to perform the duties of Business Manager for the employer and was, accordingly, offered a reduction position. Appellant "became upset, raised her voice, and told (employer) that she always spoke down to her

and made her feel stupid.” Appellant then turned down the reduction position with the employer which was offered to her. This reduction position was at a rate of \$9.00 per hour rather than \$13.50 per hour as Appellant had received as Business Manager. The reduction position may have carried less than forty hours per week, which the Business Manager position had carried.

Appellant cites an Ohio Supreme Court case and multiple Court of Appeals decisions as to when it is reasonable to turn down a reduction position which would carry less income to the employee. None of the Court of Appeals decisions are from the Fourth District Court of Appeals and the Ohio Supreme Court case held that a reduction in pay of less than fifteen percent does not require the conclusion, as a matter of law, that an offered job does not represent satisfactory work within the meaning of R. C. 4144.29. Pennington v Dudley (1967), 10 OS 2d 90. The Supreme Court did state that there may be instances where an employer’s offer of other work to an employee would not constitute suitable work or where the employee may have good cause for refusing such an offer.

Apparently, the Unemployment Compensation Review Commission did not find the facts in this case sufficient to find that the employer’s offer of other work to this Appellant would not constitute suitable work or where the Appellant would have good cause for refusing such an offer.

Accordingly, this Court cannot find that the actions of the Commission were unlawful, unreasonable, or against the manifest weight of the evidence. Accordingly, the decision of the Unemployment Compensation Review Commission is sustained as to each of its findings and decision.



CHARLES COOPER
JUDGE

PROOF OF SERVICE

This is to certify that a copy of the foregoing Entry was sent to the following by Ordinary U. S. Mail, this 29th day of November, 2012:

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