

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

Deseree A. Austin	)	Case No. 764250
	)	
Appellant	)	Judge Peter J. Corrigan
	)	
vs.	)	<b><u>OPINION</u></b>
	)	
Director, Ohio Dept. of Job and Family	)	
Services, et al.	)	
	)	
Appellees	)	

**Peter J. Corrigan, J.:**

This is an administrative appeal from the Ohio Unemployment Compensation Review Commission (“Review Commission”) pursuant to R.C. 4141.282. The Review Commission found that claimant-appellant Deseree Austin (“appellant”) quit her job with Planned Lifetime Assistance Network of Northeast Ohio, Inc. (“employer”) without just cause and denied her unemployment benefits. For the following reasons, this Court determines that the decision of the Review Commission is unlawful, unreasonable, or against the manifest weight of the evidence and is reversed.

The appellant first received unemployment benefits in December 2009 after she was laid off from her job at the Warrensville Developmental Center. (T. 9) That position was a full-time forty hour per week position with overtime opportunities. (T. 14) On July 14, 2010, appellant began part-time work as a home caregiver with Planned Lifetime Assistance. (T. 6) Because this was a part-time position, she continued to receive partial unemployment benefits since her earnings were less than her weekly benefit amount. See

R.C. 4141.30(C). On August 12, 2010, appellant exhausted her regular unemployment benefits and was approved for extended unemployment benefits. She was later approved for Tier 2 Extended Unemployment Benefits on January 13, 2011.

This case involves the denial of these ongoing partial unemployment benefits following appellant's departure from her part-time work with Planned Lifetime Assistance on January 8, 2011.

The facts show that appellant worked as an in-home caregiver for Planned Lifetime Assistance from July 14, 2010 until January 8, 2011. (T. 6) Her responsibilities included meal preparations, light housekeeping and ensuring that prescribed medications were properly taken. (T. 7) She worked approximately ten to fourteen hours per week. (T. 7, 8) Most of the hours were worked in the morning, however, two evenings a week she returned to cook and serve dinner. (T. 7-8) Appellant also worked an additional shift the second weekend of the month. (T. 7-8)

Because appellant needed full-time work, she repeatedly asked her supervisor for more hours, but was always told full-time work was not available. (T. 8, 9, 11) Therefore, appellant decided to enroll in classes at the Regency Beauty Institute to obtain training in another field where she believed she would have a better opportunity to gain full-time employment. (T. 8, 9) The school had two schedules she could attend: a daytime class from 8 to 5 p.m. and an evening course from 6 to 9 p.m. (T. 12, 14) She wanted to continue her work with Planned Lifetime Assistance, but was told her schedule could not be adjusted to allow her to attend classes. (T. 11-13, 15-16, 18) She told her supervisor that her classes began on January 31, 2011 and she would stay until then to train her

replacement. (T. 11-13, 16) However, a replacement was found and appellant was informed that January 8, 2011 would be her last day. (T. 13).

The hearing officer concluded that appellant should be denied continued unemployment benefits on the basis that she quit without just cause. The hearing officer found that appellant voluntarily quit her job to attend school and held that while “furthering one’s education/training is commendable, such a personal decision is not without sacrifice and cannot be held to be a qualifying separation at the expense of a future benefit year employer’s account.” Decision, Findings of Fact ¶ 2.

Further appeal by appellant to the Review Commission was disallowed. It is this decision that appellant appeals and that employer and appellee, Director Ohio Department of Job and Family Services seek to uphold.

On appeal to the court of common pleas, the standard of review in an unemployment compensation benefits case is found in R.C. 4141.282(H), which provides in part that “[i]f 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.”

Appellant’s claim for unemployment benefits was denied on the ground that she quit work without just cause as provided in R.C. 4141.29(D)(2)(a):

(D) \*\*\*no individual may serve a waiting period or be paid

benefits under the following conditions:

\*\*\*

(2) For the duration of his unemployment if the director finds that:

(a) He quit his work without just cause \*\*\*.

The question of whether appellant quit for just cause is a legal determination. There is no hard and fast definition of just cause. Instead, the Supreme Court of Ohio has consistently held that “each case must be considered upon its particular merits.” *Irvine v. State Unemployment Comp. Bd. of Review*, 19 Ohio St.3d 15, 17, 482 N.E.2d 587 (1985), *Williams v. Ohio Dept. of Job and Family Services*, 129 Ohio St.3d 332, 2011-Ohio-2897, 951 N.E.2d 1031. Further, it has been said that “just cause” is “that which, to an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act.” *Id.* at ¶ 22.

Additionally, our Supreme Court has stated that “[t]he determination of what constitutes just cause must be analyzed in conjunction with the legislative purpose underlying the Unemployment Compensation Act.” *Id.* That purpose is “to enable unfortunate employees, who become and remain involuntarily unemployed by adverse business and industrial conditions, to subsist on a reasonably decent level and is in keeping with the humanitarian and enlightened concepts of this modern day.” *Id.*

With the purpose of the Act in mind, the Supreme Court has held that the protections of an employee under R.C. 4141.29 are to be liberally construed and the exceptions to R.C. 4141.29 should be narrowly construed. *Lorain County Auditor v. Ohio Unemployment Comp. Review Comm.*, 113 Ohio St.3d 124, 2007-Ohio-1247 at ¶ 31, 863 N.E.2d 133. Yet, the high court has cautioned that “[t]he Act does not exist to protect employees from themselves, but to protect them from economic forces over which they have no control. When an employee is at fault, he is no longer the victim of fortune’s whims, but is instead directly responsible for his own predicament. Fault on the employee’s part separates him from the Act’s intent and the Act’s protection. Thus, fault is

essential to the unique chemistry of a just cause termination.” *Tzangas, Plakas & Mannos v. Ohio Bur. of Emp. Servs.*, 73 Ohio St.3d 694, 697-698, 1995-Ohio-206, 653 N.E.2d 1207.

With these principles in mind, and construing the protections of the Act liberally and the exceptions narrowly, it cannot be found that appellant quit her job without just cause. Appellant was not at fault for leaving her part-time job. She did so to better her chances of becoming self-sufficient. By enrolling in classes and obtaining additional training, she improved her chances for full-time employment opportunities. This is a decision that an “ordinarily intelligent person” would justifiably make. Also, considering this case on “its particular merits,” appellant sought to continue working for Planned Lifetime Assistance and attend school but her employer was unable to accommodate either the daytime or evening courses. The court also takes into consideration that appellant did not want to leave her job at Planned Lifetime Assistance, but was consistently told that full-time employment was not an option. In order to support herself, appellant needed a full-time job and her employer knew this fact.

Also noteworthy is that appellant would not have been denied benefits if she had initially refused the offer of a split shift part-time job since the work was not suitable pursuant to R.C. 4141.29(E) and (F) where her base period employment was full-time work. She should not now be denied unemployment benefits because she attempted to mitigate her losses. To punish appellant for taking a part-time job instead of pursuing training from the beginning of her unemployment status would violate the spirit of the unemployment law, which is to protect employees from economic forces over which they have no control. Appellant’s split shift part-time job at Planned Lifetime Assistance was

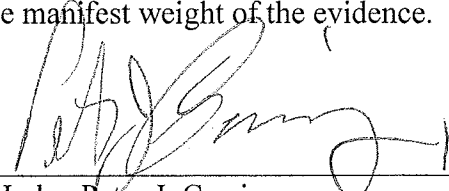
substantially less favorable than the full-time work that appellant held before she initially began to receive benefits. Therefore, it is reasonable that appellant would quit her job at Planned Lifetime Assistance when her employer could not accommodate her request for an adjustment in her schedule to allow her to obtain training in a new field.

Although appellee cites appellate court decisions from other jurisdictions to support its position that appellant's choice to quit her job and attend school constitutes a "quit without just cause," these cases are distinguishable.

For instance, in *Morris v. Ohio Dept. of Job and Family Svcs.*, 7<sup>th</sup> Dist. No. 2001 CO 55, 2002-Ohio-5250, the claimant quit her job primarily due to a dispute with coworkers. As a result of the dispute, claimant quit her job after finding another job. She also enrolled in school. There was no discussion about claimant's enrollment in school or how it affected her decision to quit; instead, the analysis centered on whether there was just cause to quit due to the coworker problems. While the court did summarily state that a quit to attend school is not a quit for just cause, the focus was on the primary reason for the claimant's decision to leave, which was the alleged harassment of the coworkers.

In *Jones v. Unemp. Comp. Bd. of Review*, 61 Ohio App.3d 272 (2<sup>nd</sup> Dist. 1989), the claimant quit a full-time job (as opposed to a part-time job that appellant quit) to attend school. Additionally, in *Jones*, there was no indication that the claimant needed to attend school to become self-sufficient. Also, unlike *Jones*, appellant attempted to resolve her problem with her employer before quitting. Appellant first sought more hours and then she sought a different work schedule so that she could attend classes and continue with her part-time work. Moreover, appellant did not seek a particular work schedule; she had the option of going to school during the day or evening.

For the foregoing reasons, the Court determines the decision of the Review Commission is unlawful, unreasonable, or against the manifest weight of the evidence. The decision is reversed.

  
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Judge Peter J. Corrigan

1/3/13

Date: January \_\_, 2013

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