

FEB 06 2013

IN THE ATHENS COUNTY COURT OF COMMON PLEAS

Richard, CLERK
OF COMMON PLEAS COURT

ATHENS, OHIO

William D. Hayes, : Case No. 12CI0029
: Judge Michael Ward
Appellant, :
: DECISION AND JUDGMENT ON
vs. : ADMINISTRATIVE APPEAL; FINAL
: APPEALABLE ORDER
Swift Transportation :
Company, et al., :
Appellees. :


Appellant William D. Hayes (Hayes) appeals an order of the Unemployment Compensation Review Commission disallowing further review of his case. The Commission's ultimate conclusion was that Hayes quit his employment with Swift Transportation Company without just cause, thus precluding his receipt of unemployment compensation benefits.¹ The administrative record has been filed, the parties have fully briefed their positions, and the appeal is submitted for decision.

Central to the administrative hearing officer's decision was his conclusion that Hayes had not provided medical proof of his alleged disability to his employer. That was the gist of the employer's testimony at the hearing, which Hayes failed to attend. Hayes' confusion about the time of the hearing likely does not constitute good cause for his failure to attend. However, there was evidence in the existing record that could have led the hearing officer to conclude that Hayes made a good

¹ R.C. 4141.29(D)(2)(a) bars payment of unemployment compensation benefits for the duration of the claimant's unemployment if the claimant quit work without just cause.

faith effort to timely supply medical evidence to his employer. The administrative record contained a "Disability and Accommodation Worksheet" completed by Hayes' treating physician, Dr. James B. Muntean. The worksheet contains Dr. Muntean's repeated reference to an explanatory attachment; however, for reasons unknown, the attachment is not included in the administrative record. Hayes presents to this Court a letter from Dr. Muntean that he purports is the referenced attachment. The court declines to consider the letter as substantive evidence at this level, which is appellate in nature. Rather, the Court deems it appropriate to remand this matter to the agency. Fairness and reasonableness dictate that the agency consider the omitted attachment referenced in the disability worksheet. Dr. Muntean's letter may or may not cast a different light upon the events of July 2011. Whether it does so is a matter for the trier of fact - the administrative agency.

Accordingly, pursuant to R.C. 4141.282(H), it is the Court's judgment that this matter be remanded to the agency for rehearing.



Judge Michael Ward

This is a judgment or final order, which may be appealed. The Clerk, pursuant to Civ.R. 58(B), shall serve notice of the judgment and its date of entry upon the journal on all parties who are not in default for failure to appear. Within three (3) days after journalization of this entry, the Clerk is required to serve notice of the judgment pursuant to Civ.R. 5(B) and shall note the service in the appearance docket.

cc: Steven T. Sloan, Esq.
Patria V. Hoskins, Asst. Ohio Atty. Gen.

JOURNALIZED

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**FINAL APPEALABLE
ORDER**