

COMMON PLEAS COURT

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IN THE COURT OF COMMON PLEAS
GEAUGA COUNTY, OHIO

JOHN RICHER
STATE OF OHIO
COUNTY

JOHN RICHER

: CASE NO: 13A000006

Appellant

:

JUDGE DAVID L. FUHRY

-vs-

:

OHIO DEPARTMENT OF JOBS AND
FAMILY SERVICES et al

: **ORDER OF THE COURT**

Appellees

:

A-18

This matter came on for consideration as an Administrative Appeal from the Ohio Unemployment Compensation Review Commission's Decision denying the appellant/claimant John Richer's, appeal from a re-determination which denied an initial determination of benefits. The Re-determination held that the appellant was discharged with just cause in connection with his work.

The parties have briefed the issue.

THE COURT FINDS THAT the denial of benefits should be upheld because the appellant with discharged with just cause in connection with his work. The Court in this case is not a fact finder. Every reasonable presumption must be made in favor of the Commission's Decision and Findings of Fact. "The decision of the review commission may not be reversed simply because reasonable minds might reach different conclusions from the same evidence." *Reddick v. Sheet metal Product Co.*, 2010 Ohio 1160 (Lake). [p. 17].

The Review Commission found in its decision of October 23, 2012 that the appellant instructed the truck loader to ride along with truck drivers. This is prohibited by the employer. The employer conducted an investigation. The appellant denied instructing the loaders to ride with the drivers. The Commission further found that the appellant contacted the other parties involved and asked them to alter the stories that they told the employer regarding what had occurred. The appellant was discharged.

The Review Commission concluded that the employer provided credible, reliable evidence that appellant violated its policies. Also, and importantly, that the appellant was dishonest in the investigation and attempted to interfere with its

investigation. The Review Commission found that the appellant's actions constituted sufficient fault to reasonably justify his discharge.

In this case the appellant is asking the Court to reweigh the evidence that was presented below. The appellant takes issue with the Commission's finding that the investigatory documentation submitted by the employer was more credible than his testimony. However, the Review Commission is entitled to rely on the evidence that it did in making its decision. The hearing officer was not bound by the statutory rules of evidence nor by technical or formal rules of procedure. R.C. §4141.281(C)(2). In this case, the statements relied upon by the Review Commission took the form of hearsay but were part of the Review Commission's records and may be used in support of its decision. *Brown v. Bob Evans Farms, Inc.*, 190 Ohio App. 3d 837 (Columbiana).

The Court is precluded from making factual findings or determining the credibility of witnesses. The determination of factual questions and evaluation of witnesses is the responsibility of the hearing officer and the Review Commission. This is not a trial de novo. The Commission was within its rights to determine that the appellant in this case was at fault. The employer thus had just cause to discharge the appellant.

In applying the standard of review to this case, the Court finds for the Commission.

WHEREFORE, the Court finds that the decision of the Review Commission is not unreasonable, unlawful, or against the manifest weight of the evidence. The Decision of the Commission is affirmed. The appeal is denied. Costs to appellant, John Richer.

IT IS SO ORDERED.



DAVID L. FUHRY, JUDGE

cc: Laurence Snyder, Esq. ✓
Michael Creveling, Esq. ✓
RMP Transportation Co. ✓

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TO THE CLERK:
Serve upon all parties, not in default for failure
to appear (per Civil Rule 5-(E)), notice of this
Judgment and its date of journalization.