

IN THE COMMON PLEAS COURT
OF MIAMI COUNTY, OHIO
GENERAL DIVISION

MIAMI COUNTY
COMMON PLEAS COURT
2013 JUL 25 PM 1:31
JOAN A. HOTTINGER
CLERK OF COURTS

MATTHEW BAKER : CASE NO. 13-217
Appellant, : JUDGE ROBERT J. LINDEMAN
VS. :
MICHAEL COLBERT, DIRECTOR OF :
THE DEPARTMENT OF JOB AND : JUDGMENT ENTRY
FAMILY SERVICES, et al. :
Appellees. :

This matter came on for review of the record of the transcript filed in this case, neither side having timely submitted briefs.

The claimant was employed through a temp agency when he dumped a basket full of product on the floor at Fresh Unlimited and declared to the operations manager, "Fuck you, I'm done with this place." The company took this pointed declaration as a voluntary resignation, as of August 28, 2012.

The claimant's request for unemployment benefits was thus denied and he appealed the disallowance, claiming the State was at fault for taking his license, *sic*. (His driver's license was suspended for excessive points on his driving record.)

The claimant appealed the disallowance which was transferred to the Unemployment Commission Review Commission to determine if the claimant was discharged for just cause in connection with work.

The issue was set for a telephone hearing on February 21, 2013 but neither the claimant nor his representative appeared. Notice of the hearing was sent to the same address the claimant gave in his instant appeal to the Court. Accordingly, the appeal of the claimant was dismissed.

On March 10, 2013 the claimant asked for a hearing on the question of whether he had good cause for failure to appear for the hearing. This request was granted and the matter was heard on March 27, 2013, with the claimant participating.

The hearing officer filed a decision on March 28, 2013 concluding the claimant did not have substantial reasons for failing to appear at the initial hearing and, thus, he did not establish he had good cause in failing to appear by telephone or otherwise.

At the hearing the claimant stated he did not appear by telephone because his telephone was disconnected the night before or that morning (the hearing was scheduled for 8:00 a.m. on February 21, 2013), due to his failure to pay his telephone bill.

The claimant further claimed there were no pay phones, he had to go across town to a friend's house to use the internet and he had to put his 4 year old on a school bus at 8:00 a.m.

The notice sent to the parties advised them to contact the review commission 15 minutes in advance to initiate the hearing. The claimant acknowledged he did not seek a postponement in advance of the hearing and he did not request an in-person hearing.

The hearing officer found the claimant failed to establish good cause for failure to appear, and the dismissal of his appeal mailed February 21, 2013 was final.

ANALYSIS

This Court's duty is to determine whether the review commission's decision is supported by evidence in the record.

The Court concludes the claimant was provided a full and fair hearing on his failure to appear for the telephone hearing on his application for unemployment compensation benefits.

There exists ample evidence in the record which supports the conclusion that the decision of the review commission was reasonable, not unlawful and not against the manifest weight of the evidence, when it held that the denial of the claimant's application was final on February 21, 2013 when he failed to appear for the hearing.

In fact, the record reflects he did nothing until he received another notice indicating he would not be receiving benefits. This triggered his efforts to explain why he never contacted the commission on February 21, 2013 or at anytime thereafter regarding his claimed inability to call in for the hearing.¹

The decision of the review commission is affirmed. The claimant's appeal is dismissed.



ROBERT J. LINDEMAN, JUDGE

cc: Matthew Baker
Robin A. Jarvis
Fresh Unlimited, Inc.
Kelly Services, Inc.
Addecco USA, Inc.

¹The claimant's appeal filed April 12, 2013 notes he can be reached at two telephone numbers, both noted on page 2.