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IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

CUYAHOGA COUNTY
CLERK OF COURTS
By *[Signature]* Deputy

ANDERSON L. FERNANDERS,)
)
 Appellant,)
)
 v.)
)
 HORIZONS YOUTH SERVICES, *et al.*,)
)
 Appellees.)
)
)

CASE NO. CV 13 805352

JUDGE BRENDAN J. SHEEHAN



**OPINION AND JUDGMENT
ENTRY**

This case is an administrative appeal from the Ohio Unemployment Compensation Review Commission (“Review Commission”) pursuant to R.C. §4141.282. The Review Commission found that Anderson L. Fernanders (“Appellant”) was discharged from employment with Horizons Youth Services, LLC (“Horizon”) for just cause in connection with Appellant’s work performance. Appellant, appearing *pro se*, contends that his discharge was not for just cause and that he was separated from employment in retaliation for other unspecified conduct.

On December 1, 2012, Appellant filed a claim for unemployment compensation with Appellee Ohio Department of Job and Family Services (ODJFS). On December 21, 2012, ODJFS issued a Determination of Benefits that denied the claim on the basis that Appellant was discharged by Horizon for just cause under R.C. 4141.29(D)(2)(a). On December 21, 2012, Appellant filed an appeal of the Determination of Benefits dated December 21, 2012.

On January 10, 2013, ODJFS issued a Redetermination of Benefits that affirmed the Determination of Benefits dated December 21, 2012. On January 31, 2013, Appellant filed an appeal of the Redetermination of Benefits. On February 1, 2013, ODJFS transferred jurisdiction of the claim on appeal to the Unemployment Compensation Review Commission (UCRC)

pursuant to R.C. 4141.281. On February 27, 2013, an evidentiary hearing was held by a hearing officer of the UCRC under R.C. 4141,281. On March 27, 2013, the evidentiary hearing was concluded. On March 28, 2013, a Decision was issued by the hearing officer of the UCRC affirming the Redetermination of Benefits and denied the claim on the basis that Appellant was discharged by Horizon for just cause under R.C. 4141.29(D)(2)(a).

On April 5, 2013, Appellant filed a Request for Review of the adverse Decision of the UCRC. On April 17, 2013, a final Decision was issued by the full UCRC that disallowed the Request for Review.

On April 22, 2013, Appellant filed a Notice of Appeal in this Court under R.C. 4141.282.

The hearing officer's findings of fact in the March 28, 2013 Decision included the following:

FINDINGS OF FACT

The claimant worked for Horizon Youth Services from May 1, 2012 through November 13, 2012. The claimant worked as a career counselor during the six months of his employment. During the course of his employment claimant had received warnings from the employer for failing to complete his job duties properly. The claimant was placed on a performance improvement plan by the employer. Claimant received prior warnings on September 13, 2012, September 26, 2012 and October 12, 2012. After claimant had been placed on the performance improvement plan, he continued to fail to complete duties as expected by the employer. Claimant was sent e-mails and other communications concerning work that needed to be completed. Claimant failed to complete the work in a timely manner. The claimant was discharged by the employer for failing to perform his job duties in a timely manner and for excessive errors in his paperwork.

The facts stated in the Decision are supported by testimony and exhibits in the record.

The standard of review this Court must apply to appeals of unemployment compensation benefits determinations is set forth in R.C. §4141.282(H):

The court shall hear the appeal on the certified record provided by the commission. 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.

The Court's power to review agency decisions is, therefore, strictly limited. The Ohio Supreme Court has further explained the limited power of a reviewing court in stating:

Such courts are not permitted to make factual findings or to determine the credibility of witnesses. *Hall v. American Brake Shoe Co.* (1968), 13 Ohio St.2d 11, 13, 233 N.E.2d 582 [42 O.O.2d 6]. The duty or authority of the courts is to determine whether the decision of the board is supported by the evidence in the record. *Kilgore v. Bd. of Review* (1965), 2 Ohio App.2d 69, 71, 206 N.E.2d 423 [31 O.O.2d 108]. The fact that reasonable minds might reach different conclusions is not a basis for the reversal of the board's decision. *Craig v. Bur. of Unemp. Comp.* (1948), 83 Ohio App. 247, 260, 83 N.E.2d 628 [38 O.O. 356]. Moreover, "[o]ur statutes on appeals from such decisions [of the board] are so designed and worded as to leave undisturbed the board's decisions on close questions. Where the board might reasonably decide either way, the courts have no authority to upset the board's decision." *Charles Livingston & Sons, Inc. v. Constance* (1961), 115 Ohio App. 437, 438, 185 N.E.2d 655 [21 O.O.2d 65].

Irvine v. State Unemploy. Comp. Bd. of Review (1985), 19 Ohio St.3d 15, 17-18.

The court finds that the decision of the Review Commission is supported by the evidence in the record and was not unlawful, unreasonable, or against the manifest weight of the evidence. Accordingly, THE DECISION OF THE REVIEW COMMISSION IS **AFFIRMED**. Parties to bear their own costs.

IT IS SO ORDERED.


JUDGE BRENDAN J. SHEEHAN

Dated: 11.22.13

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CERTIFICATE OF SERVICE

A copy of the foregoing was served by mail this 25th day of October, 2013 on the following:

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