

ENTERED

MAY 08 2014

IN THE COURT OF COMMON PLEAS  
HAMILTON COUNTY, OHIO

Hon. Leslie Ghiz

DERICKA SAUNDERS,

Case No. A 1307807

Appellant,

Judge Leslie Ghiz

vs.

ENTERED  
MAY 09 2014

OASIS OUTSOURCING VII,  
INC., et al.

ENTRY ADOPTING THE  
MAGISTRATE'S DECISION



Appellees.

Pursuant to Civil Rule 53(E)(4), the Court hereby adopts the Decision of the Magistrate entered in the above-captioned case on April 16, 2014. The objection period has expired and no objections to the decision were filed nor were there any extensions granted. WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the Magistrate's Decision is hereby affirmed.

Costs to the Appellant. This is the final appealable order. There is no just reason for delay.

COURT OF COMMON PLEAS  
ENTER  
*Leslie Ghiz*  
JUDGE LESLIE GHIZ  
THE CLERK SHALL SERVE NOTICE  
TO PARTIES PURSUANT TO CIVIL  
RULE 58 WHICH SHALL BE TAXED  
AS COSTS HEREIN.

MAGISTRATE

MAY 07 2014

HAS SEEN

FOR COURT USE ONLY  
S.C.  
Line # \_\_\_\_\_

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DERICKA SAUNDERS,

Appellant,

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OASIS OUTSOURCING VII,  
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Appellees.

: Case No. A 1307807

: Judge Leslie Ghiz

: Magistrate Michael L. Bachman

: **MAGISTRATE'S DECISION**



D105909333

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RENDERED THIS 15<sup>TH</sup> DAY OF APRIL, 2014

This case is an appeal from the Unemployment Compensation Review Commission's ("Review Commission") Decision Disallowing Request for Review of the Hearing Officer's decision denying Dericka Saunders ("Appellant") claim for unemployment benefits on the basis that she was discharged with just cause. This appeal, filed pursuant to R.C. 4141.282, was taken under submission upon the conclusion of oral arguments made before the Common Pleas Magistrate.

**BACKGROUND**

The Appellant filed for unemployment compensation benefits. The Appellee, Director, Ohio Department of Job and Family Services ("ODJFS"), issued an initial Determination disallowing the Appellant's application for benefits. The Appellant appealed the Determination and ODJFS issued a Redetermination affirming the Determination. The Appellant filed an appeal from the Redetermination and ODJFS transferred jurisdiction of the appeal to the Review Commission pursuant to R.C. 4141.281(C).

An evidentiary hearing was held before a hearing officer for the Review Commission. The Hearing Officer affirmed the Redetermination, and denied the Appellant's claim for unemployment benefits finding that the Appellant was terminated for just cause. The Appellant requested further review of her claim by the Review Commission, but the Review Commission disallowed the Appellant's request. The Appellant appealed to this Court, seeking reversal of the Review Commission's adverse decision.

### **STANDARD OF REVIEW**

This Court shall hear the appeal upon receipt of the certified record provided by the Review Commission. If the Court finds that the Review Commission's decision was "unlawful, unreasonable, or against the manifest weight of the evidence", it shall reverse, vacate, or modify the decision, or remand the issue to the Review Commission. R.C. 4141.282(H). Otherwise, the court shall affirm the Review Commission's decision. *Id.* The reviewing court must follow this same standard in assessing just cause determinations. *Irvine v. Unemp. Comp. Bd. Of Rev.*, 19 Ohio St.3d 15, 17-18, 482 N.E.2d 587 (1985). The determination of factual questions and the evaluation of witnesses' credibility is the responsibility of the Hearing Officer and Review Commission, and accordingly, parties on appeal are not entitled to a trial de novo in this Court. *Tzangas, Plakas, and Mannos v. Ohio Bur. of Emp. Serv.*, 73 Ohio St.3d 694, 697, 653 N.E.2d 1207 (1995).

## DISCUSSION

The Appellant worked as a Client Care Representative for Oasis Outsourcing VII, Inc. ("Oasis"). The Appellant's position was a customer service position that she performed from home. Oasis required its Client Care Representatives to be available to receive calls during their shift. The Appellant received discipline from Oasis on September 28, 2012, January 29, 2013 and February 12, 2013. The July 15, 2013 event finally caused the Appellant to be discharged. The Hearing Officer's Decision states:

On July 15, 2013, claimant was scheduled to work from 9:00am to 5:00pm. At 9:15am, claimant changed her status to provisioning without notifying her supervisor. At 9:25am, claimant's supervisor sent her a message asking her why she was unavailable to take calls. She responded that she bought a new headset and was trying to configure it. She was asked to use her old headset and wait until a break period to configure the new headset. At 9:36am, claimant's supervisor responded to a previous email from claimant regarding her pay check and advised her that the hours missed on her check would have to be paid on her next pay check. Claimant responded that it was unacceptable and that she would let him know if she would be working that day. Claimant remained on provisioning and unable to take calls the rest of the shift. On July 16, 2013, claimant called off sick. Claimant was discharged on July 17, 2013 for status misuse and neglecting her job duties.

The Appellant contends that her discharge was in retaliation for her complaints for failure to receive a raise when others did while she was off sick. However, the Appellant did not raise this argument under oath during the hearing or in the record.

ODJFS contends that the Appellant's disciplinary record shows that Oasis had just cause to discharge the Appellant. ODJFS also argues that the Appellant was discharged for just cause as the Appellant's actions demonstrated an

unreasonable disregard for the employer's best interest. ODJFS, relying on *Williams v. Ohio Dep't of Job & Family Serv.*, 129 Ohio St.3d 332, 2011-Ohio-2897, 951 N.E.2d 1031, ¶ 24, argues that the Appellant is at fault for her discharge and therefore should not be entitled to unemployment benefits.

After reviewing the entire record and arguments of the parties, the court cannot find that the facts as expressed by the hearing officer are not supported by the record. The Hearing Officer held that the Appellant was discharged for just cause. The Court agrees with the Hearing Officer's conclusion.

**DECISION**

The decision of the Review Commission denying the Appellant unemployment compensation benefits is hereby AFFIRMED. The Court cannot find that the hearing officer's decision is unlawful, unreasonable or against the manifest weight of the evidence.



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**MICHAEL L. BACHMAN  
MAGISTRATE,  
COURT OF COMMON PLEAS**

**NOTICE**

Objections to the Magistrate's Decision must be filed within fourteen days of the filing date of the Magistrate's Decision. A party shall not assign as error on appeal the court's adoption of any factual finding of fact or legal conclusion, whether or not specifically designated as a finding of fact or conclusion under

Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ.R. 53(D)(3)(b).

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY THAT COPIES OF THE FOREGOING DECISION HAVE BEEN SENT BY ORDINARY MAIL TO ALL PARTIES OR THEIR ATTORNEYS AS PROVIDED ABOVE.

Date: 4/10

Deputy Clerk: [Signature]