

IN THE COURT OF COMMON PLEAS
FILED LAKE COUNTY, OHIO

ARLEEN THOMPSON,)
2015 MAR 20 P 1:38)
Plaintiff)
MAUREEN G. KELLY)
LAKE CO. CLERK OF COURT)
vs.)
CROTHALL HEALTHCARE, INC. et al.,)
Defendants)

CASE NO. 14CV001685
JUDGE VINCENT A. CULOTTA
JUDGMENT ENTRY

This matter comes before the Court for consideration of the timely pro se Notice of Appeal filed by Arleen Thompson following a July 31, 2014, decision of the Ohio Department of Unemployment Compensation Review Commission (hereinafter, Review Commission) disallowing a Request for Review of the July 2, 2014, decision affirming that she was discharged from her employment with just cause and disallowing her application for unemployment benefits.

STATEMENT OF THE CASE

Initially, Appellant's application for unemployment benefits was disallowed on May 14, 2014, based upon the finding that Appellant was discharged from her employment with just cause. On June 3, 2014, the Director's Redetermination affirmed the initial denial of unemployment benefits. Thereafter, Appellant filed her appeal from the Director's Redetermination and a telephone hearing was held on June 19, 2014. Both parties appeared and presented evidence and on July 2, 2014, the hearing officer affirmed the Director's Redetermination and found that the Appellant was discharged from her employment with just cause. A Request for Review was denied and so Appellant filed the instant appeal.

APPELLANT'S BRIEF

Appellant asserts that evidence brought against her is false. Appellant contends that witness statements were falsified. Appellant further contends that she was never granted progressive counseling prior to being terminated even though progressive counseling is set forth in the employer's handbook. Appellant also maintains that the employer did not follow their own policies when she complained about the behavior of her supervisor. Appellant argues that

she is entitled to unemployment benefits because she was a loyal employee for ten years with no disciplinary issues and that the incident that led to her termination was blown out of proportion.

APPELLEE, DIRECTOR, OHIO DEPARTMENT OF JOB AND FAMILY SERVICES, BRIEF

Appellee, Director, Ohio Department of Job and Family Services (hereinafter, Director) filed a brief in response to Appellant’s brief. Appellee Director contends that the decision of the Review Commission that Appellant was discharged from her employment with Crothall Healthcare, Inc. with just cause in connection with work is not unlawful, unreasonable, or against the manifest weight of the evidence and should be affirmed under R.C. §4141.282(H). Appellee notes that the determination of factual questions and the evaluation of the credibility of the witnesses is the responsibility of the hearing officer and not the Court. Further, Appellee notes that the Court’s only duty is to determine whether the decision is supported by some competent, credible evidence and it is not to conduct a trial de novo. See *Kilgore v. Bd. Of Review*, 2 Ohio App.2d 69 (1965), *Tzangas, Plakas & Mannos v. Ohio Bur. of Employ. Serv.*, 73 Ohio St.3d 694 (1995), *Angekovski v. Buckeye Potato Chips Co.*, 11 Ohio App.3d 159 (1983), *Brown-Brockmeyer Co. v. Roach*, 148 Ohio St. 511 (1947), *Irvine v. Unemploy. Comp. Bd. Of Rev.*, 19 Ohio St.2d 15 (1985), *Simon v. Lake Geauga Printing Co.*, 69 Ohio St.2d 41 (1982).

Appellee argues that there is credible evidence in the record which supports the Review Commission’s decision that the Appellant was discharged with just cause. Appellee notes that the facts surrounding the incident giving rise to the discharge are largely not in dispute. Specifically, the testimony indicates that the Appellant took umbrage to a note left for her by the Employer’s Team Leader Brittany Grillo reminding Appellant to place “toilet strips” on cleaned toilets. Appellant confronted Ms. Grillo in a threatening manner which Ms. Grillo attempted to avoid. Appellee notes that the Appellant acknowledges that her actions were in violation of the Employer’s policy and that she knew about the policy.

COURT’S ANALYSIS AND CONCLUSION

Pursuant to R.C. §4141.282(H):

The Court shall hear the appeal upon receipt of the certified record provided by the commission. If the Court finds that the decision 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.

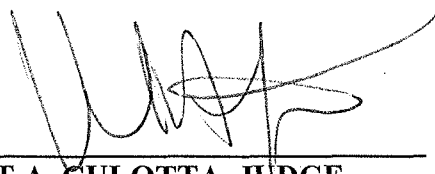
The Court cannot substitute its own judgment for that of the Board of Review. *Brown-Brockmeyer*, 148 Ohio St. 511. Ordinarily, the court should defer to the agency's resolution of purely factual issues which depend on the credibility of witnesses or the relative weight of conflicting evidence. *Angekovski* 11 Ohio App.3d 159 at 161; *Brown-Brockmeyer*, 148 Ohio St. at 518. For such issues, the common pleas court should affirm the agency's findings if they have support from some competent, credible evidence. *Id.*; *Bernard v. Administrator*, 9 Ohio App.3d 277, 279 (1983).

In this case, the Court finds that the hearing officer took evidence and the testimony of the parties and came to the conclusion that Appellant was discharged from her employment with just cause and thus, was not eligible for unemployment benefits. This decision is supported by some competent, credible evidence and the Court is unable to substitute its own judgment on these factual issues. The Court further finds that the decision is not contrary to law or unreasonable. The Court again reiterates that an appeal to this Court brought pursuant to R.C. §4141.282(H) does not allow Appellant to present a new case. Rather, the Court is limited to the certified record.

Upon consideration, the Court finds that the decision of the Review Commission that Appellant was discharged from her employment with Crothall Healthcare, Inc. with just cause is supported by the manifest weight of the evidence and is not contrary to law or unreasonable.

WHEREFORE, the decision of the Ohio Department of Unemployment Compensation Review Commission dated July 2, 2014, is hereby affirmed. Costs to the Appellant.

IT IS SO ORDERED.



VINCENT A. CULOTTA, JUDGE

Copies:

Arleen Thompson
Lawrence R. Snyder, Esq.

FINAL APPEALABLE ORDER
Clerk to serve pursuant
to Civ.R. 58 (B)