

FILED
LUCAS COUNTY

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COMMON PLEAS COURT
BERNIE QUILTER
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IN THE COURT OF COMMON PLEAS OF LUCAS COUNTY, OHIO

Community ISP, Inc.

Case No. CI14-3888

Appellant,

Judge James D. Bates

vs.

Ryan P. Hanifan, et al.,

OPINION AND JUDGMENT ENTRY

Appellees.

* * * * *

This is an appeal from a decision of the Ohio Unemployment Compensation Review Commission (hereinafter "the commission"), mailed July 9, 2014, which affirmed a hearing officer's decision which found that appellee, Ryan Hanifan, was entitled to unemployment compensation. Upon a review of the parties' memoranda, the record of the administrative proceedings, and the applicable law, the commission's decision is affirmed for the reasons that follow.

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I. ASSIGNMENTS OF ERROR

"ASSIGNMENT OF ERROR NO. 1

"The Hearing Officer abused his discretion in finding that Ryan Hanifan quit his job with just cause."

II. STATEMENT OF FACTS

Hanifan was employed by appellant, Community ISP, Inc. as a Senior Systems Engineer on January 2, 2013, with an annual base compensation of \$65,000. On July 17, 2013, after appellant was unable to reach Hanifan after hours, Hanifan received a letter stating that it was essential that Hanifan carry his cell phone at all times and promptly respond to miss calls. Then, in November, 2013, Dan Illausky, a Technology Project Manager for appellant, had a discussion with Hanifan about his negative attitude. Lastly, on January 13, 2014, Hanifan met with appellant's CEO, Jeffrey Klingshirn, and Illausky and was given a letter changing his job title from Senior Systems Engineer to Systems Engineer with the correlating decrease in salary to \$35,000 a year. Hanifan resigned his employment two days later. On January 16, 2014, Hanifan applied for unemployment benefits. The application was allowed on February 10, 2014 and that determination was affirmed in a Director's Redetermination issued by the Ohio Department of Job and Family Services ("ODJFS") on March 21, 2014. Appellant appealed the Director's Redetermination and the ODJFS transferred jurisdiction to the Review Commission. A telephone hearing was held with hearing officer, Paulette Johnson, at which Hanifan and Illausky testified. Ms. Johnson issued a decision affirming the Director's Redetermination, and finding that appellant quit for just cause. Appellant filed a Request for Review to the Review Commission, which affirmed the hearing officer's decision. Appellant then appealed that decision to this court. Appellant and ODJFS have filed their briefs and the appeal

is now before the court for determination.

III. LAW AND APPLICABLE DISCUSSION

A party may appeal a decision of the review commission to the appropriate court of common pleas. R.C. 4141.282(A). The review commission's decision can be reversed only if it was "unlawful, unreasonable, or against the manifest weight of the evidence." R.C. 4141.282(H). *Also, see, Lombardo v. Ohio Bureau of Employment Services*, 119 Ohio App.3d 217, 220 (6th Dist.1997). "In reviewing the commission's decision, an appellate court has the duty to determine whether the decision is supported by the evidence in the record; however, it is not permitted to make factual findings or determine the credibility of witnesses. *** A reviewing court, whether it be the common pleas court or the Ohio Supreme Court, may only overturn the commission's decision if it was 'unlawful, unreasonable, or against the manifest weight of the evidence.'" *Stoll v. Owens Brockway Glass Container, Inc.*, 6th Dist. No. L-02-1049, 2002-Ohio-3822 (citations omitted).

A person is not entitled to unemployment benefits in Ohio if it is found that "[h]e quit his work without just cause ***." R.C. 4141.29(D)(2)(a). The Ohio Supreme Court has defined "just cause" as "that which, to an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act." *Tzangas, Plakas & Mannos v. Administrator, Ohio Bur. of Emp. Servs.*, 73 Ohio St.3d 694,697, 653 N.E.2d 1207 (1995), quoting *Irvine v. Unemployment Comp. Bd. of Review*, 19 Ohio St. 3d 15, 17, 482 N.E.2d 587 (1985). Therefore, the issue before the court is whether Hanifan had just cause to quit his job with appellant.

Courts have found that "a material reduction in compensation is 'just cause' for resignation from a job for purposes of unemployment compensation." *Kern v. Harrison Truck & Body*, 6th Dist.

No. S-95-041, 1996 Ohio App. LEXIS 594 (Feb. 23, 1996).

The hearing officer determined that appellant reduced Hanifan's wages by almost fifty percent without following its progressive disciplinary procedure, that such a wage decrease was substantial as a matter of law, and thus, Hanifan had just cause to quit. Appellant argues the wage reduction was not a disciplinary measure, but rather was a job assignment based on the fact that Hanifan was not performing the duties of a Senior Systems Engineer, and thus, appellant merely reclassified Hanifan into a position matching the job he was actually performing.

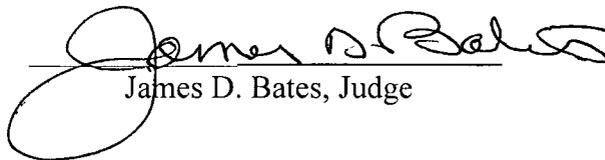
There is evidence in the record supporting the hearing officer's finding that Hanifan was demoted, resulting in a substantial reduction in his pay, and further, that he was demoted without first being subject to the company's disciplinary procedure. Such evidence further supports the finding that Hanifan had just cause to quit his employment.

As the commission's decision is supported by evidence in the record, the court finds that the decision is not unlawful, unreasonable, or against the manifest weight of the evidence. The decision is therefore affirmed.

JUDGMENT ENTRY

It is **ORDERED, ADJUDGED, AND DECREED** that the commission's decision is hereby **AFFIRMED**.

May 27, 2015


James D. Bates, Judge

cc: Fritz Byers, Esq.
Eric A. Baum, Esq.
Ryan P. Hanifan