

Lori L. Francis, : Case No. 14CI0224  
 :  
 Appellant, : Judge Patrick J. Lang  
 :  
 vs. : DECISION AND JUDGMENT ON  
 : ADMINISTRATIVE APPEAL; FINAL  
 Director, Ohio Dept. of : APPEALABLE ORDER  
 Job and Family Services, :  
 et al., :  
 Appellees. :

I. PROCEDURAL HISTORY

Appellant Lori L. Francis (Francis) appeals the order of the Unemployment Compensation Review Commission disallowing further review of her case, thereby denying unemployment compensation benefits. The administrative record has been filed, the parties have briefed their positions, and the appeal is submitted for decision.

II. STANDARD OF REVIEW

The following standard of judicial review governs this appeal:

When reviewing a decision of the Unemployment Compensation Review Commission, a reviewing court must affirm unless it concludes that the decision was unlawful, unreasonable, or against the manifest weight of the evidence. \* \* \* All courts, whether common pleas or appellate, must apply this same standard. \* \* \* [T]he Review Commission remains the finder of fact. The fact that reasonable minds may have reached a different decision than the Review Commission is not a basis for reversal.

Dodridge v. Ohio Dept. of Job and Family Services, 4<sup>th</sup> Dist. No. 09CA3292, 2010-Ohio-696. The agency found that Francis was constructively discharged for just cause; therefore, the following principles also apply:

Unemployment compensation is not available to an employee \* \* \* who was discharged for just cause. R.C. 4141.29(D)(2)(a). Just cause in this context is that which, to an ordinarily intelligent person, is a justifiable reason for terminating an employee \* \* \*. 'If an employer has been reasonable in finding fault on behalf of an employee, then the employer may terminate the employee with just cause.' \* \* \* 'The critical issue is not whether an employee has technically violated some company rule, but \* \* \* whether the employee, by his actions, [has] demonstrated an unreasonable disregard for his employer's best interests.' \* \* \*

Astro Shapes, Inc. v. Sevi, 7<sup>th</sup> Dist. No. 09 MA 105, 2010-Ohio-750.

### III. DISCUSSION

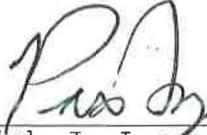
The record supports the agency's resolution of the "just cause" discharge issue. There is competent, credible evidence in the record demonstrating that Francis, an RN, was employed by Eagle Pointe (an adult nursing care facility), that Eagle Pointe had a policy barring employees from bringing their children to work, that Francis was warned in late June or early July 2014 for violating that policy, and that she again violated the policy on July 15, 2014, resulting in her constructive discharge - i.e., resign or be fired. In the case at bar, Francis substantially admits to having been warned of the "no children at work" policy. Francis asserts that her minor daughter and other children had been permitted on prior occasions to volunteer at the facility; however, Francis concedes that her daughter was not volunteering on July 15<sup>th</sup>. Also, Francis asserts that another employee's child (not a volunteer) was routinely at the facility, sleeping on a couch; however, the hearing officer was free to, and apparently did, give little or

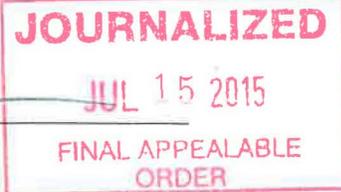
no weight to that testimony. Francis' repeat violation of her employer's policy was sufficient for a just cause discharge.

At most, reasonable minds could differ as to the facts underlying Francis' constructive discharge and the resultant "just cause" determination. However, as noted above, this is not cause for overturning the agency's decision.

IV. CONCLUSION AND JUDGMENT

Accordingly, the Court finds the Commission's decision is not unlawful, unreasonable, or against the manifest weight of the evidence. Therefore, the decision denying unemployment benefits is AFFIRMED.

  
\_\_\_\_\_  
Judge Patrick J. Lang



This is a judgment or final order, which may be appealed. The Clerk, pursuant to Civ.R. 58(B), shall serve notice of the judgment and its date of entry upon the journal on all parties who are not in default for failure to appear. Within three (3) days after journalization of this entry, the Clerk is required to serve notice of the judgment pursuant to Civ.R. 5(B) and shall note the service in the appearance docket.

cc: Alan Schwepe, Asst. Ohio Atty. Gen.  
Lori L. Francis, pro se