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**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

CUYAHOGA METROPOLITAN HOUSING
AUTHORITY

Plaintiff

DIRECTOR, OHIO DEPARTMENT OF JOB & FAMILY
S, ET AL

Defendant

2015 JUL 16 A 11:19

CLERK OF COURTS
CUYAHOGA COUNTY

Case No: CV-14-827330

Judge: JOSE A VILLANUEVA

JOURNAL ENTRY

98 DISPOSED - FINAL

THIS CASE COMES BEFORE THE COURT ON APPEAL BY APPELLANT CUYAHOGA METROPOLITAN HOUSING AUTHORITY ("CMHA") FROM A DECISION BY THE UNEMPLOYMENT COMPENSATION REVIEW COMMISSION PURSUANT TO OHIO R.C. 4141.28(O)(1). THE COMMISSION FOUND THAT CLAIMANT DONALD REEVES WAS DISCHARGED FROM HIS EMPLOYMENT WITH CMHA WITHOUT JUST CAUSE AND THEREFORE WAS ELIGIBLE FOR UNEMPLOYMENT BENEFITS. THE PARTIES HAVE BRIEFED THE ISSUES AND THE COURT HAS CONSIDERED ALL ARGUMENTS AND REVIEWED THE RECORD. THE COURT FINDS THAT THE COMMISSION'S DECISION WAS SUPPORTED BY THE EVIDENCE IN THE RECORD, AND WAS NOT UNLAWFUL, UNREASONABLE, OR AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE. R.C. 4141.282(H); TZANGAS, PLAKAS & MANNOS V. ADMINISTRATOR, OHIO BUREAU OF EMPLOYMENT SERVS., 73 OHIO ST. 3D 694, 697, 1995-OHIO-2016.

THE ISSUES IN THIS CASE ARE WHETHER CLAIMANT TOOK AN ENVELOPE FROM THE MANAGEMENT OFFICE WITHOUT AUTHORIZATION, AND WHETHER CMHA WAS JUSTIFIED IN TERMINATING HIS EMPLOYMENT BASED UPON THIS ACTION. THE HEARING OFFICER ASSESSED THE CREDIBILITY OF WITNESSES AND WEIGHED THE EVIDENCE PRESENTED, AND DETERMINED THAT CLAIMANT REEVES DID NOT REMOVE THE ENVELOPE. IN TURN, CLAIMANT WAS NOT DISHONEST WHEN HE DENIED TAKING THE ENVELOPE. AT MOST, HE WAS GUILTY OF ENTERING THE MANAGEMENT OFFICE WHILE ON LEAVE FROM EMPLOYMENT. HOWEVER, THE HEARING OFFICER NOTED THAT CLAIMANT HAD ONLY MINOR PRIOR INFRACTIONS DURING HIS FIFTEEN YEARS OF EMPLOYMENT AND A LESSER FORM OF DISCIPLINE WOULD HAVE BEEN MORE APPROPRIATE.

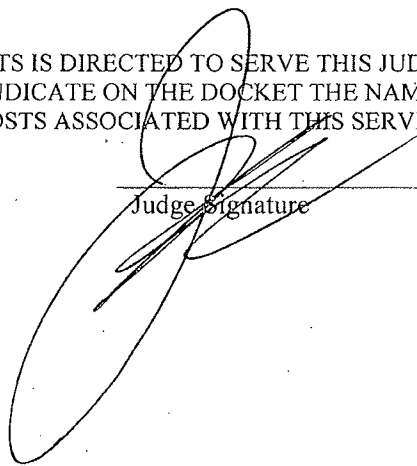
THE COURT NOTES THAT THE FINDINGS BY THE HEARING OFFICER TURN LARGELY ON CREDIBILITY AND THAT THE HEARING BEFORE THE COMMISSION WAS BY TELEPHONE. NEVERTHELESS, THE OFFICER WAS IN THE BEST POSITION TO ASSESS THE VERACITY OF WITNESSES. FURTHER, THE TRIAL COURT SHOULD NOT USURP THE FACT FINDERS ROLE TO MAKE FACTUAL FINDINGS OR TO DETERMINE THE CREDIBILITY OF WITNESSES. IRVINE V. STATE, UNEMPLOYMENT COMPENSATION BD. OF REVIEW, 19 OHIO ST. 3D 15, 18 (1985). THE TRIAL COURT MUST GIVE DEFERENCE TO THE COMMISSION'S DECISION IN ITS ROLE AS FINDER OF FACT, AND MAY NOT REVERSE THE COMMISSION'S DECISION SIMPLY BECAUSE REASONABLE MINDS MIGHT REACH DIFFERENT CONCLUSIONS. ID. THE COURT THEREFORE AFFIRMS THE COMMISSION'S DECISION.

COURT COST ASSESSED TO THE PLAINTIFF(S).

PURSUANT TO CIV.R. 58(B), THE CLERK OF COURTS IS DIRECTED TO SERVE THIS JUDGMENT IN A MANNER PRESCRIBED BY CIV.R. 5(B). THE CLERK MUST INDICATE ON THE DOCKET THE NAMES AND ADDRESSES OF ALL PARTIES, THE METHOD OF SERVICE, AND THE COSTS ASSOCIATED WITH THIS SERVICE.

Judge Signature

Date

 7/15/2015