

**COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO  
CIVIL DIVISION**

<b>Tregenia Walters,</b>	:	
	:	
<b>Appellant,</b>	:	<b>CASE NO. 15 CV 3541</b>
	:	
<b>-vs-</b>	:	<b>JUDGE KIMBERLY COCROFT</b>
	:	
<b>Ohio Department of Job and Family Services, et al.,</b>	:	
	:	
<b>Appellee.</b>	:	

**DECISION AND ENTRY**

**COCROFT, JUDGE**

This matter comes before this Court upon the appeal of Appellant, Tregenia Walters, from a decision of the Unemployment Compensation Review Commission that was mailed on April 1, 2015. The Review Commission affirmed, in part, the March 12, 2015 Decision of the Hearing Officer that concluded Appellant had quit her job without just cause. R.C. 4141.29(D)(2)(a). In that Decision, the hearing officer removed the finding that Appellant was guilty of fraudulent misrepresentation for the week ending November 9, 2013 and the associated penalties imposed by the Director’s Redetermination. The hearing officer also concluded that Appellant was overpaid benefits of \$5,901.00.

The Review Commission disallowed Appellant’s request for a review. Thereafter, Appellant filed the appeal herein and is representing herself pro se. On July 13, 2015, Appellee filed a motion for judgment on the pleadings. Appellant did not file a memorandum contra.

The record demonstrates that Appellant did not file a brief pursuant to the case schedule which was due on July 6, 2015. Additionally, there is nothing in the record demonstrating a

request for an extension of time to file the brief. Ohio case law continues to hold that *pro se* civil litigants are bound by the same rules and procedures as those litigants who retain counsel. *Copeland v. Rosario*, 1998 Ohio App. LEXIS 260. They are not accorded greater rights and must accept the results of their mistakes and errors. *Kilroy v. B.H. Lakeshore*, 111 Ohio App. 3d 357, 363 (1996). *Pro se* litigants are presumed to have knowledge of the law and of correct legal procedure and are held to the same standard as all other litigants. *Meyers v. First Natl. Bank*, 3 Ohio App. 3d 209 (1981).

With respect to procedural rules, *pro se* litigants are held to the same standards as a practicing attorney. The *pro se* litigant is to be treated the same as one trained in the law as far as the requirement to follow procedural law and adhere to court rules. If the Court treats a *pro se* litigant differently, the Court begins to depart from its duty of impartiality and prejudices the handling of the case as it relates to other litigants represented by counsel. See *Justice v. Lutheran Social Servs.* 1993 Ohio App. LEXIS 2029.

### **Standard of Review**

This Court must uphold the decision of the Review Commission unless it concludes, upon review of the record, that the decision is unlawful, unreasonable or against the manifest weight of the evidence. See R.C. 4141.282(H); see also *Tzangas, Plakas & Mannos v. Ohio Bur. Emp. Serv.*, 73 Ohio St. 3d 694 (1995). While a reviewing court is not permitted to make factual findings or determine the credibility of witnesses, it does have a duty to determine whether the decision of the Review Commission is supported by the evidence in the record.

The Unemployment Compensation Act does not exist to protect employees from themselves, but to protect them from economic forces over which they have no control. When an employee is at fault, he or she is no longer the victim of fortune's whims but instead is directly responsible for his/her own predicament. Fault on the employee's part separates him/her from the Act's intent and the Act's protection. Thus, fault is essential to the unique chemistry of a just cause

termination. Thus, if the employer has been reasonable in finding fault on behalf of an employee, then the employer may terminate the employee with just cause. See R. C. 4141.29(D)(2)(a). Fault on behalf of the employee remains an essential component of a just cause termination. See *Tzangas* at 699. In the facts before the Court, the record supports the finding that Appellant was terminated with just cause and that the Review Commission's November 19, 2014 Decision is supported by the evidence. Thus, pursuant to the holding in *Red Hotz, Inc. v. Liquor Control Comm'n*, 1993 Ohio App. LEXIS 4032, this Court will review the record and decide the case on its merits.

The record demonstrates that Appellant filed an Application for Determination of Benefit Rights. The Director allowed the application with a benefit year beginning October 6, 2013. On January 15, 2015, the Director issued a Redetermination which held that Appellant quit work with Sharp Community Resources, Ltd. without just cause. The claimant's benefit rights were suspended until the Appellant works six weeks of covered employment and earns at least \$1,398.00. It was further found that the Appellant made fraudulent misrepresentations with the object of obtaining benefits to which the Appellant was not entitled for the week ending November 9, 2013. Additionally, it was ordered that if the Appellant files valid weekly claims during the period 10/9/2014 through 10/10/2020, she shall not be eligible. The Appellant was ordered to repay \$5,944.00 which included a 25% penalty of \$44.00.

On January 16, 2015, Appellant filed an appeal from the Redetermination. On February 10, 2015, ODJFS transferred jurisdiction to the Review Commission. On March 9, 2015 a hearing via telephone was held before Hearing Officer Jennifer Hanysh. Appellant represented herself and testified on her own behalf. ODJFS was represented by Zach Schneider. The employer, Sharp Community Resources, Ltd. was represented by Richard Sharp.

In her March 12, 2015 Decision, the hearing office rendered the following Findings of

Fact:

The claimant filed an application for determination of benefit rights on or about October 10, 2013. On December 9, 2013, the ODJFS allowed the claimant's application finding that the claimant was discharged by Columbus City Board of Education on October 3, 2013. The ODJFS further held that in accordance with Section 4141.29(A), Ohio Revised Code, this agency finds that claimant was working part-time with SHARP COMMUNITY RESOURCES LTD and her gross earnings were less than the weekly benefit amount.

The claimant filed a weekly claim for benefits for the week ending November 9, 2013. In that weekly claim, the claimant answered "No" to the following "Did you quit employment?"

The claimant left her part time employment because she was suffering from a nervous breakdown after she was let go from Columbus City Board of Education as a bus driver. Claimant was working as a bus driver with SHARP COMMUNITY RESOURCES LTD. She never informed her employer of any issue or inability to do her job prior to quitting her employment.

The claimant reported that she told ODJFS that she no longer could mentally work as a bus driver at the time. She was told to write a letter about her circumstances. She did. The ODJFS does not have a record of the letter she sent.

March 12, 2015 Decision.

The hearing officer concluded as follows, in relevant part:

...Here, based on the available evidence and witness testimony, it cannot be found by a preponderance of the evidence that claimant acted reasonably or as an ordinary prudent person would in a same or similar situation before deciding to quit. The claimant did not present medical documentation and failed to ask for an accommodation to her employer prior to leaving her employment.

Therefore, the Hearing Officer must find that the claimant quit work without cause.

March 12, 2015 Decision.

The hearing officer also concluded that Appellant did not intend to commit fraud with the intent of obtaining benefits and determined that that the penalties imposed by the Director's Redetermination based on the finding of fraud should be removed. Thus the hearing officer made the following decision:

The Director's Redetermination, issued January 15, 2015 is modified.

The claimant quit work with Sharp Community Resources Ltd. without just cause. The claimant's benefits rights are suspended until the claimant works six weeks of covered employment and earns at least \$1,398.00.

The claimant did not make fraudulent misrepresentations with the object of obtaining benefits to which the claimant was not entitled for the week ending November 9, 2013. The prior Fraud overpayment order and penalty weeks imposed by the Director are hereby set aside and cancelled with respect to the week ending November 9, 2013. The Director's Overpayment Order in the amount is (sic) \$5901.00 is affirmed.

March 12, 2015 Decision.

A review of the March 9, 2015 hearing demonstrated that during the early fall of 2013, Appellant was working two jobs. She was employed as a bus driver for the Columbus City Schools and was working alternate weekends for Sharp Community Resources Ltd as a shuttle driver. The witness testimony demonstrates that Appellant was fired from her job with Columbus City Schools on October 3, 2013. Her last day working for Sharp Community Resources Ltd. was November 4, 2013. She did not disclose to Sharp Community Resources Ltd. (Richard Sharp) or to anyone else that she quit working for Sharp Community Resources, Ltd. the week of November 9, 2013. Zach Schneider, the ODJFS fraud investigator, stated that Appellant did not disclose her separation from Sharp Community Resources, Ltd. See Tr. 5-15.

Appellant testified that she quit her part-time employment at Sharp Community Resources Ltd. because the work was hazardous and injurious to her health because she has to work late hours. Tr. 6.

Accordingly, this Court concludes that the March 12, 2015 Decision is lawful and reasonable, and the evidence in the record supports the decision of the Review Commission. Thus, the March 11, 2013 Decision is hereby **AFFIRMED**.

Appellee filed a Motion for Judgment on the Pleadings on July 13, 2015 that was not opposed. This Court hereby concludes that this motion is moot. On April 27, 2015, it appears that Appellant filed a Motion to Proceed in Forma Pauperis, although the motion refers to “Appellant, Seguy Francois.” The Court will **GRANT** this motion based on the affidavit of Appellant attached to this motion.

Rule 58(B) of the Ohio Rules of Civil Procedure provides the following:

**(B) Notice of filing.** When the court signs a judgment, the court shall endorse thereon a direction to the clerk to serve upon all parties not in default for failure to appear notice of the judgment and its date of entry upon the journal. Within three days of entering the judgment on the journal, the clerk shall serve the parties in a manner prescribed by Civ. R. 5(B) and note the service in the appearance docket. Upon serving the notice and notation of the service in the appearance docket, the service is complete. The failure of the clerk to serve notice does not affect the validity of the judgment or the running of the time for appeal except as provided in App. R. 4(A).

**THE COURT FINDS THAT THERE IS NO JUST REASON FOR DELAY. THIS IS A FINAL APPEALABLE ORDER.** Pursuant to Civil Rule 58, the Clerk of Court shall serve notice upon all parties of this judgment and its date of entry.

IT IS SO ORDERED.

Franklin County Court of Common Pleas

**Date:** 08-13-2015

**Case Title:** TREGENIA A WALTERS -VS- OHIO STATE DEPARTMENT JOB  
FAMILY SERVICE ET AL

**Case Number:** 15CV003541

**Type:** ENTRY

It Is So Ordered.

A handwritten signature in black ink is written over a circular blue seal. The seal contains the text "COMMON PLEAS COURT" at the top, "FRANKLIN COUNTY, OHIO" in the middle, and "ALL THINGS ARE POSSIBLE" at the bottom. The signature is a cursive-style name that appears to be "K. Cocroft".

/s/ Judge Kimberly Cocroft

Court Disposition

Case Number: 15CV003541

Case Style: TREGENIA A WALTERS -VS- OHIO STATE  
DEPARTMENT JOB FAMILY SERVICE ET AL

Case Terminated: 10 - Magistrate

Final Appealable Order: Yes

Motion Tie Off Information:

1. Motion CMS Document Id: 15CV0035412015-07-1399980000  
Document Title: 07-13-2015-MOTION FOR JUDGMENT ON  
PLEADINGS  
Disposition: MOTION IS MOOT
2. Motion CMS Document Id: 15CV0035412015-04-2799920000  
Document Title: 04-27-2015-MOTION  
Disposition: MOTION GRANTED