

COURT OF COMMON PLEAS
 ENTER
 HONORABLE CHARLES J. KUBICKI, JR.
 THE CLERK SHALL SERVE NOTICE
 TO PARTIES PURSUANT TO CIVIL
 RULES OF PROCEDURE FOR
 10/29/2015

COURT OF COMMON PLEAS
 HAMILTON COUNTY, OHIO

DIANE B. MARCUS,	:	Case No. A1209900
Plaintiff,	:	Judge Charles J. Kubicki, Jr.
vs.	:	
OHIO DEPARTMENT OF JOB AND FAMILY SERVICES,	:	ENTRY GRANTING OBJECTIONS TO THE MAGISTRATE'S DECISION
Defendant.	:	

This matter came before the Court upon Appellee's Objections to the Magistrate's Decision which were not opposed. This court has reviewed the Objections, along with all other pleadings filed herein, and finds that the Objections are well-taken and are therefore GRANTED. Thus, the Magistrate's Decision from May 13, 2013 is OVERRULED.

Furthermore, because the Claimant received a payment for \$10,454.54 during her base period from her base employer, her unemployment benefits should be offset by her monthly pension.

IT IS SO ORDERED.

FOR COURT USE ONLY	
S. C. Line #:	18

Charles J. Kubicki, Jr., Judge

COPY SENT VIA FACSIMILE AND REGULAR MAIL TO:

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**COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

DIANE MARCUS, : Case No. A1209900
Appellant, : Judge Charles Kubicki, Jr.
Magistrate Michael L. Bachman
-vs- :
DIRECTOR, OHIO DEPARTMENT OF :
JOB AND FAMILY SERVICES, : **MAGISTRATE'S DECISION**
Appellee. :

RENDERED THIS 13th DAY OF MAY, 2013.

This cause came on to be heard upon an appeal from the decision of the Ohio Unemployment Compensation Review Commission that denied unemployment benefits and charged an overpayment to the Appellant. After due consideration of the certified record of the Review Commission, the legal briefs filed by the parties, and the applicable legal authority, the Court hereby finds that the decision of the Review Commission was unlawful, unreasonable, and against the manifest weight of the evidence and is therefore overturned and remanded for action consistent with this Decision.

Pursuant to R.C. 4141.31, unemployment compensation benefits must be reduced by the amount of a claimant's pension only if both prongs of R.C. 4141.312 are met. This Court finds that Appellant, Diane Marcus's pension does not meet the second requirement of R.C. 4141.312 because she did not perform any services for Hamilton County after the beginning of her base period or receive payment for such services. Therefore, her unemployment benefits may not be reduced by the amount of her pension from Hamilton County.

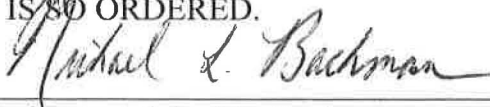


D102034262

DECISION

This case is remanded back to the Ohio Department of Job and Family Services (ODJFS) to recalculate Ms. Marcus's unemployment benefits from her application date of August 1, 2011 to present without inclusion of her pension. ODJFS shall eliminate all overpayments on Ms. Marcus's account that have been charged due to the previous inclusion of her pension. Further, for all weeks Ms. Marcus filed a claim for unemployment benefits, ODJFS shall issue her any benefits that were withheld to repay the overpayment or denied because the inclusion of her pension made her ineligible to receive benefits

IT IS SO ORDERED.


Magistrate Michael L. Bachman

NOTICE

Objections to the Magistrate's Decision must be filed within fourteen days of the filing date of the Magistrate's Decision. A party shall not assign as error on appeal the Court's adoption of any factual finding or any legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ. R. 53(D)(3)(a)(ii) unless the party timely and specifically objects to the factual finding or legal conclusion as required under Civ. R. 53(D)(3)(b).

Copies sent by Clerk of Courts to:

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CERTIFICATE OF SERVICE

I hereby certify that copies of the Magistrate's Decision have been sent by ordinary US mail to all parties or their attorneys as provided above.

Date: 5/14 Deputy Clerk: 