

**IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO  
GENERAL DIVISION**

<b>Tanya Williams,</b>		<b>Case No. 14CV-11120</b>
<b>Appellant,</b>		<b>Judge Sheeran</b>
<b>vs.</b>		
<b>Ohio Department of Job and Family Services, et al.,</b>		
<b>Appellees.</b>		

---

**Decision and Judgment Entry Affirming Decision of Ohio  
Unemployment Compensation Review Commission**

**and**

**Notice of Final Appealable Order**

**Sheeran, J.**

This case is a Revised Code 4141.282 administrative appeal, by Tanya Williams (Appellant), from a “Decision Disallowing Request for Review” that the Ohio Unemployment Compensation Review Commission issued on October 8, 2014. In that Decision, the Commission denied Appellant’s request for further review of a Hearing Officer’s decision, in which the Hearing Officer disallowed Appellant’s application for unemployment compensation benefits.

On October 28, 2014, the Court issued a briefing schedule directing Appellant to file a brief in support of her appeal by January 6, 2015. Appellant has never filed a brief. Appellees, however, have filed briefs, and they have moved the Court to enter a judgment on the record.

Pursuant to R.C. 4141.282(H), the Court is obligated to examine the record to determine whether the order Appellant has appealed was “unlawful, unreasonable, or against the manifest weight of the evidence.” The Court has examined the record. Having done so, the Court issues the following decision affirming the Commission’s Decision.

**Facts**

Appellant was employed by Upreach LLC as a Support Specialist, from January 2012 to June 2014. Appellant’s job was to provide in-home care to her employer’s clients (referred to by the employer as “consumers”) in their homes. When Appellant began her employment in January 2012, she received an employee handbook containing her employer’s written policies. *Transcript, Aug. 26, 2014 (T.) pp. 16, 19.*<sup>1</sup>

On January 8, 2013, it was reported to Appellant’s supervisors that she took her child with her when she went to work at a consumer’s home. Appellant thereby violated her employer’s written policy that provided that children of employees were not allowed in a consumer’s home without the permission of the consumer or a supervisor.

On January 14, 2013, Appellant attended a disciplinary meeting with her supervisors. *T. p. 12.* At the meeting, Appellant was given a written warning for having taken her child to the consumer’s home on January 8, 2013 and on other occasions, without the permission of the consumer or a supervisor. *T. p. 12.* At the meeting, Appellant denied having taken her child to work on January 8, 2013, but she admitted that she had taken her child to a consumer’s home on other occasions, without the permission of the consumer or a supervisor.

At the disciplinary meeting on January 14, 2013, Appellant behaved unprofessionally and disrespectfully, was argumentative, was insubordinate towards her supervisors, accused her

---

<sup>1</sup> Italicized references are to the transcript of Appellant’s adjudication hearing on August 26, 2014.

supervisors of being motivated by personal feelings against Appellant, and refused to sign the written warning. *T. pp. 12-13.*

On May 8, 2014, at a consumer's home, there was a verbal confrontation between Appellant and Kristina Brooks, a co-worker who arrived at 11 p.m. to relieve Appellant at the end of Appellant's shift. *T. pp. 7-8.* When Ms. Brooks arrived for the shift change, she said hello to the consumer and then went into the kitchen, where Appellant began yelling at Ms. Brooks within earshot of the consumer. Appellant accused Ms. Brooks of being rude and stated that she expected Ms. Brooks to speak to her when she opened the door to let Ms. Brooks into the home. Ms. Brooks told Appellant that Ms. Brooks would speak to the consumer first, since it was the consumer's home. After Appellant left the home, Ms. Brooks found the consumer sitting up in bed looking very upset. Ms. Brooks reassured the consumer that everything was alright.

On May 9, 2014, Ms. Brooks submitted a written complaint to Upreach regarding Appellant's conduct at the consumer's home on May 8, 2014. Ms. Brooks also reported that, for several months, there had been a continuing problem with Appellant not giving medication to the consumer by 11 p.m., when Ms. Brooks arrived at the home on Tuesdays and Thursdays to relieve Appellant at the end of Appellant's shift. *T. p. 7.*

On May 15, 2014, Appellant attended another disciplinary meeting with her supervisors, to discuss her relationship with Ms. Brooks. *T. p. 8.* When Appellant was asked about the incident on May 8, 2014, Appellant denied that it happened. *T. p. 8.* Appellant was instructed that she was obligated to give a report to Ms. Brooks, about events that occurred during Appellant's shift, and that Appellant was to behave in a professional manner towards Ms.

Brooks. *T. pp. 8-9.* Appellant was asked if, going forward, she would be able to abide by those expectations, and she said yes. *T. p. 9.*

On June 5, 2014, Ms. Brooks reported to Upreach that the situation with Appellant was not improving, and that Ms. Brooks had two videotapes to substantiate that report. *T. pp. 9, 11-12.* In the first videotape, there was an interaction between Appellant and Ms. Brooks on June 5, 2014, at the shift change, where neither person spoke to the other at any time during the shift change. *T. pp. 11, 14, 18.* In the second videotape, Appellant went into the consumer's bedroom at 11 p.m. on June 5, 2014, bent down over the sleeping consumer, shook the consumer's arm, and said, "Wake up, I'm leaving." *T. pp. 9, 11-13, 31-32.* At 11 p.m., when Ms. Brooks relieved Appellant, the consumer was not scheduled to receive medication. *T. pp. 11-12.* Therefore, Appellant woke up the consumer only to make the situation difficult for Ms. Brooks. *T. p. 12.*

After Ms. Brooks reported to Upreach, on June 5, 2014, that the situation with Appellant was not improving, Appellant's supervisors reviewed her personnel file and determined that, based on Appellant's history of disciplinary issues, her employment needed to be terminated. *T. pp. 12-13.*

On June 6, 2014, Appellant's supervisors contacted her by phone and informed her that her employment with Upreach had been terminated. *T. p. 15.* Appellant's employment was terminated because of her history of violating her employer's written policies, in particular, the policies that addressed neglect of duty, insubordination, and relations with fellow employees. *T. p. 32.* Appellant had failed to comply with her supervisors' requests to speak to her co-worker, Ms. Brooks, in a professional manner, and Appellant had ultimately involved a consumer in the controversy between Appellant and Ms. Brooks, by waking the sleeping consumer in order to create difficulty for Ms. Brooks. *T. pp. 15-16.*

**Agency Proceedings**

On June 16, 2014, Appellant applied to the Ohio Department of Job and Family Services (ODJFS) for unemployment compensation benefits, for a benefit year beginning June 15, 2014.

In an initial Determination issued on July 8, 2014, ODJFS disallowed Appellant's application, having determined that she was discharged from her employment for just cause in connection with work. Appellant appealed the initial Determination to the Director of ODJFS.

In a Director's Redetermination issued on July 28, 2014, the Director affirmed the initial Determination and disallowed Appellant's application, having determined that Appellant was discharged from her employment for just cause in connection with work. The Director stated, in the Redetermination:

The claimant was discharged by UPREACH LLC on 06/05/2014. The employer discharged the claimant for refusing to cooperate with fellow employees in work-related tasks. Facts establish that the claimant's actions demonstrated a disregard of the standards of behavior which an employer has a right to expect. Ohio's legal standard that determines if a discharge is with just cause is whether the claimant's acts, omissions, or course of conduct were such that an ordinary person would find the discharge justifiable. After a review of the facts, this agency finds that the claimant was discharged with just cause under Section 4141.29(D)(2)(a), Ohio Revised Code. Therefore, no benefits will be paid until the claimant obtains employment subject to an unemployment compensation law, works six weeks, earns wages of \$1398, and is otherwise eligible.

Appellant appealed the Director's Redetermination to the Ohio Unemployment Compensation Review Commission.

On August 26, 2014, a Hearing Officer conducted a telephone hearing on Appellant's appeal. *T. pp. 1-33*. Appellant participated in the hearing and testified. *T. pp. 19-31*. Amanda Moore, a Human Resources Administrative Assistant employed by Upreach, also participated in the hearing and testified. *T. pp. 5-19, 31-32*.

At the hearing on August 26, 2014, Ms. Moore testified to the facts recited above. At the hearing on August 26, 2014, Appellant testified that she did not take her child to work on January 8, 2013, and that she did not wake up the consumer on June 5, 2014. *T. 21-22, 27, 29, 32-33.*

On September 18, 2014, the Hearing Officer issued a decision on Appellant's appeal.

The Hearing Officer made the following factual findings:

Claimant worked as a Support Specialist for the employer, Upreach, LLC, from January 12, 2012 until June 6, 2014. Claimant's last day worked was on June 5, 2014. Pursuant to company policy, an employee can be terminated for neglect of duty; poor relations with fellow employees and/or insubordination. Claimant received a copy of the policy at the beginning of her employment.

Claimant and a co-worker, Kristina Brooks, were not getting along. Ms. Brooks oftentimes worked the shift following claimant's shift in the care of a consumer. Ms. Brooks made a complaint that claimant would not speak to her or give a progress report for the consumer at the end of the shift. Both Ms. Brooks and the claimant were not speaking to each other. At the end of each shift, claimant documented the relevant events that pertained to the consumer.

On or about May 15, 2014, claimant's immediate supervisor and [Amanda] Moore met with claimant and told her that she needed to speak to Ms. Brooks and remain professional. Claimant disagreed with the representations made by Ms. Brooks, but she acknowledged that she would be able to abide by the code of conduct and speak to Ms. Brooks. However, both ladies continued to not speak to each other. Ms. Brooks secretly taped the ladies non-interaction on June 5, 2014.

On June 5, 2014, Ms. Brooks arrived to the home of the consumer to begin her shift around 11 pm. The consumer was asleep. Claimant leaned over the consumer's bed, shook her arm to purposefully wake the consumer up after she had gone to bed for the evening. This caused the consumer to be [awake] for Ms. Brooks' shift. Ms. Brooks videoed claimant's actions and reported the incident to the employer. Ms. Moore watched the video of claimant's conduct.

On June 6, 2014, claimant was discharged by the employer for neglect of duty, insubordination and relations with fellow employees.

The Hearing Officer found that Appellant was discharged from her employment with Upreach for just cause in connection with work. The Hearing Officer provided the following reasoning for the decision:

No individual may \*\*\* be paid benefits for the duration of the individual's unemployment if the Director finds that the individual has been discharged for just cause in connection with work. Generally, in order to find that an employee was discharged for just cause in connection with work, there must have been some fault on the part of the employee. "Just cause" means conduct which a person of ordinary intelligence would consider to be a justifiable reason for the discharge of an employee; there must be some fault on the part of the employee, although the conduct need not reach the level of misconduct. The critical issue is not whether the employee has violated a company rule. Rather, just cause for discharge exists when an employee's actions demonstrate an unreasonable disregard for an employer's best interests.

Here, if it was just [claimant's] failure to communicate with Ms. Brooks, the Hearing Officer would find the employer's position less than persuasive because Ms. Brooks was not making an effort to speak to claimant as well. However, claimant crossed the line when she involved the consumer by intentionally waking the consumer up at the end of her shift/beginning of Ms. [Brooks'] shift. Such conduct is unprofessional and a neglect of her duty to do what was best for the consumer.

Claimant was discharged by Upreach, LLC, for just cause in connection with work.

The Hearing Officer affirmed the Director's Redetermination and disallowed Appellant's application for unemployment compensation benefits.

On September 14, 2014, Appellant requested that the Commission review the Hearing Officer's decision.

On October 8, 2014, the Commission issued a "Decision Disallowing Request for Review," in which the Commission disallowed Appellant's request for further review of the Hearing Officer's decision.

On October 28, 2014, Appellant appealed the Commission's decision to this Court.

Analysis

The purpose of Ohio's Unemployment Compensation Act is to provide financial assistance to persons who are without employment through no fault of their own. *Kohl v. Health Mgt. Solutions*, 10th Dist. No. 15AP-17, 2015-Ohio-4999, ¶ 17. Pursuant to R.C. 4141.29(D)(2)(A), a claimant who has been discharged for just cause in connection with work is not entitled to unemployment compensation benefits. *Id.* The claimant has the burden to prove his or her entitlement to benefits. *Id.*

Just cause, in the statutory sense, is that which, to an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act. *Kohl, supra*, ¶ 18. Thus, in the context of employment termination, just cause is found when a person of ordinary intelligence would conclude that the employee's conduct and surrounding circumstances justified the employee's discharge. *Id.* Just cause for discharge exists where the employee, by his or her actions, demonstrated an unreasonable disregard for the employer's best interests. *Id.* The determination of whether just cause exists necessarily depends upon the unique factual considerations of the particular case. *Id.*

Revised Code 4141.282(H), which governs this appeal, provides:

The court shall hear the appeal on the certified record provided by the commission. If the court finds that the decision of the commission was unlawful, unreasonable, or against the manifest weight of the evidence, it shall reverse, vacate, or modify the decision, or remand the matter to the commission. Otherwise, the court shall affirm the decision of the commission.

In reviewing a Commission decision, a court is not permitted to make factual findings or credibility determinations. *Houser v. Dir., Ohio Dept. of Job and Family Servs.*, 10th Dist. No. 10AP-116, 2011-Ohio-1593, ¶ 7. Similarly, a court may not substitute its judgment on those issues for the judgment of the Commission. *Id.* Instead, a court must determine whether the



Commission's decision is supported by the evidence in the record. *Id.* "Judgments supported by some competent, credible evidence on the essential elements of the controversy may not be reversed as being against the manifest weight of the evidence." *Id.*

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." *Tzangas, Plakas & Mannos v. Admr., Ohio Bur. of Emp. Servs.*, 73 Ohio St. 3d 694, 697 (1995). "When an employee is at fault, he is no longer the victim of fortune's whims, but is instead directly responsible for his own predicament." *Id.*, 697-698. "Fault on the employee's part separates him from the Act's intent and the Act's protection." *Id.*, 698. Thus, fault on the part of the employee is an essential component of a just cause termination. *Kohl, supra*, ¶ 19.

The testimony of Upreach employee Amanda Moore, as set forth above, established that Appellant had a history of violating her employer's written policies regarding neglect of duty, insubordination, and relations with fellow employees. Despite the employer's attempts to correct Appellant's conduct over a period of more than one year, Appellant continued to engage in conduct that demonstrated an unreasonable disregard for her employer's best interests. Appellant was discharged from her employment due to her own fault. The record supports the Hearing Officer's determination, as affirmed by the Commission, that Appellant was discharged from her employment for just cause in connection with work, thereby disqualifying her from receiving unemployment compensation benefits.

### **Conclusion**

Having reviewed the record certified to the Court by the Ohio Unemployment Compensation Review Commission, the Court concludes that the Commission's October 8, 2014

“Decision Disallowing Request for Review” was not unlawful, unreasonable, or against the manifest weight of the evidence. The Decision is therefore **AFFIRMED**.

The “Motion for Judgment on the Record by Appellee, Director, ODJFS,” filed on January 20, 2015, and the “Motion for Judgment on the Record by Appellee Upreach LLC,” filed on January 27, 2015, are hereby **GRANTED**.

This is a final, appealable order. Costs to Appellant. Pursuant to Civ. R. 58, the Clerk of Courts shall serve notice of this judgment and its date of entry upon all parties.

Copies electronically transmitted to all parties and counsel of record.

Franklin County Court of Common Pleas

**Date:** 12-21-2015  
**Case Title:** TANYA WILLIAMS -VS- OHIO STATE DEPARTMENT JOB  
FAMILY SERVICE ET AL  
**Case Number:** 14CV011120  
**Type:** DECISION/ENTRY

It Is So Ordered.

The image shows a handwritten signature in black ink that reads "Patrick E. Sheeran". The signature is written over a blue circular seal. The seal contains the text "FRANKLIN COUNTY OHIO" around the top edge and "THINGS ARE" at the bottom. In the center of the seal is a smaller emblem.

/s/ Judge Patrick E. Sheeran

Court Disposition

Case Number: 14CV011120

Case Style: TANYA WILLIAMS -VS- OHIO STATE DEPARTMENT  
JOB FAMILY SERVICE ET AL

Case Terminated: 18 - Other Terminations

Final Appealable Order: Yes

Motion Tie Off Information:

1. Motion CMS Document Id: 14CV0111202015-02-0999980000  
Document Title: 02-09-2015-MOTION - PLAINTIFF: TANYA  
WILLIAMS - FOR DISMISSAL OF THE DECISION MADE  
Disposition: MOTION DENIED
  
2. Motion CMS Document Id: 14CV0111202015-01-2799980000  
Document Title: 01-27-2015-MOTION - DEFENDANT: UPREACH  
LLC - MOTION FOR JUDGMENT ON THE RECORD  
Disposition: MOTION GRANTED
  
3. Motion CMS Document Id: 14CV0111202015-01-2099980000  
Document Title: 01-20-2015-MOTION - DEFENDANT: OHIO  
STATE DEPARTMENT JOB FAMILY SERVICE - MOTION FOR  
JUDGMENT ON THE RECORD  
Disposition: MOTION GRANTED