

COMMON PLEAS COURT  
MARION CO. OHIO

IN THE COURT OF COMMON PLEAS FOR MARION COUNTY, OHIO  
GENERAL DIVISION

JULIE M. KAGEL  
CLERK OF COURTS

PEGGY M. MILLER,

\*

Case No. 15CV0387

\*

Plaintiff-Appellant,

vs.

\*

Judge William R. Finnegan

OHIO DEPARTMENT OF JOB  
AND FAMILY SERVICES, et al.,

\*

JUDGMENT ENTRY  
OVERRULING APPEAL

\*

Defendant-Appellees.

\*

\*\*\*\*\*

This day this case came on before the Court upon the Appeal of the decision of the Unemployment Compensation Review Commission, by Plaintiff-Appellant Peggy M. Miller.

For the reasons stated in the accompanying Memorandum of Opinion, it is the Judgment and Order of the Court that the Appeal of Plaintiff-Appellant Peggy M. Miller against Defendant-Appellees Ohio Department of Job and Family Services and Daily Services LLC, is hereby overruled, and is dismissed.

Court costs are to be paid by the Plaintiff-Appellant.

TO THE CLERK: Pursuant to Civil Rule 58(B), the Clerk is directed to serve upon the parties a notice of the filing of this Judgment entry and of the date of entry upon the Journal.

*William R. Finnegan*  
JUDGE WILLIAM R. FINNEGAN

- c: Peggy M. Miller, Plaintiff-Appellant  
748 Woodrow Ave., Marion, OH 433021
- ✓ Patria V. Hoskins, Assistant Ohio Attorney General  
Health & Human Services Section, 30 E. Broad St., 26<sup>th</sup> Fl.  
Columbus, OH 43215-3400
- Daily Services LLC, Defendant-Appellee  
111 Morse Rd., Columbus, OH 43229-6329

IN THE COURT OF COMMON PLEAS FOR MARION COUNTY, OHIO  
COMMON PLEAS COURT  
MARION CO. OHIO  
GENERAL DIVISION

2016 JAN 19 PM 4:13

**PEGGY M. MILLER,**

\*

Case No. 15CV0387

JULIE M. KAGEL  
CLERK OF COURTS

**Plaintiff-Appellant,**

vs.

\*

**Judge William R. Finnegan**

**OHIO DEPARTMENT OF JOB  
AND FAMILY SERVICES, et al.,**

\*

**MEMORANDUM OF  
OPINION**

\*

**Defendant-Appellees.**

\*

\*\*\*\*\*

This day this case came on before the Court upon the Appeal by Plaintiff-Appellant Peggy M. Miller, of the decision disallowing Request for Review by the Defendant-Appellee Ohio Department of Job and Family Services. Defendant-Appellee, Daily Services, LLC, was the employer of Ms. Miller. The decision was filed July 29, 2015.

A transcript of the proceedings relating to the Plaintiff-Appellant's claim for unemployment compensation was filed with this Court on September 14, 2015, and Briefs were filed by the Plaintiff-Appellant and by Defendant-Appellee Ohio Department of Job and Family Services. A Response to Defendant's Brief was filed by the Plaintiff-Appellant.

This is an appeal of the decision of Defendant-Appellee Ohio Department of Job and Family Services to deny unemployment compensation to the Plaintiff-Appellant, Peggy M. Miller, because it was found that Ms. Miller was terminated for just cause by the employer, Dailey Services LLC. The Plaintiff-Appellant disagrees with this decision, as it is her contention that she followed proper procedure in advising Daily Services LLC that she would not be able to go into work on May 8, 2015. Daily Services LLC disputed this, and stated that although Ms. Miller had called in, she did not leave a message on the answering machine, as she was required to do, as to why she was unable to work, and that she was unable to work that day, as she was required to do.

After hearing from both sides, the hearing officer for the Ohio Department of Job and Family Services found against Ms. Miller, and denied Ms. Miller's application for unemployment compensation.

In considering this appeal, this Court notes that it may only reverse the Unemployment Compensation Review Commission's decision regarding "just cause" only if it is unlawful, unreasonable, or against the manifest weight of the evidence. This same standard of review applies at each judicial appellant level, including the common pleas court, the court of appeals, and the Supreme Court of Ohio. Verizon North, Inc. v Ohio Dept. of Job and Family Services, 170 Ohio App. 3d 42, 2007-Ohio-112 (Marion Cty.)

A reviewing court can not usurp the function of the triers of fact by substituting its judgment for theirs. The decision of purely factual questions is primarily within the preview of the Commission. A reviewing court's jurisdiction is limited to a review of the record that was created from the administrative proceedings before the Commission. The role of the common pleas court, upon an appeal from the Commission's decision, is limited to determining whether the Commission's decision is supported by evidence in the record. Verizon North Inc. v. Ohio Dept. of Job and Family Services, *supra*.

After a review of the record submitted to the Court, it is apparent that contradictory evidence was given as to the events of May 8, 2015, by Peggy M. Miller, on the one hand, and by Darrah Vaughn, a workforce management onsite supervisor employed by Daily Services, LLC, on the other.

After hearing from both sides, the Administrative Hearing Officer found the testimony adduced by Daily Services LLC to be more persuasive than the testimony brought by Plaintiff-Appellant Peggy M. Miller.

There is evidence in the record to support the Commission's finding that Ms. Miller was terminated for just cause by Daily Services LLC.

Given the determinations of fact by the Unemployment Compensation Review Commission, this Court cannot find that the Commission's decision was unlawful, unreasonable, or against the manifest weight of the evidence. Because of this, this Court finds the decision of the Unemployment Compensation Review Commission should be affirmed.

  
JUDGE WILLIAM R. FINNEGAN

cc: Peggy M. Miller, Plaintiff-Appellant  
748 Woodrow Ave., Marion, OH 433021  
✓ Patria V. Hoskins, Assistant Ohio Attorney General  
Health & Human Services Section, 30 E. Broad St., 26<sup>th</sup> Fl.  
Columbus, OH 43215-3400  
Daily Services LLC, Defendant-Appellee  
111 Morse Rd., Columbus, OH 43229-6329