

FILED

IN THE COURT OF COMMON PLEAS

2016 MAR 31 8:10
LAKE COUNTY, OHIO

MAUREEN G. KELLY
LAKE CO. CLERK OF COURT

JULIE A. QUINN)

CASE NO. 16CV000055

Plaintiff-Appellant)

vs)

JUDGMENT ENTRY

STATE OF OHIO UNEMPLOYMENT)
COMPENSATION REVIEW)
COMMISSION, et al.)

Defendants-Appellees)

This date, to wit: March 30, 2016, the within cause came on for consideration upon the following:

1. Appellant's Brief, filed March 8, 2016;
2. Brief of Appellee, Director, Ohio Department of Job and Family Services, filed March 16, 2016;
3. Brief of Appellee, Defendant-Employer, Sadar & Associates, Inc., filed March 23, 2016

This action involves the Appeal of Appellant Julie A. Quinn ("Appellant"), pursuant to R.C. 4141.282, of the decision of the Ohio Unemployment Compensation Review Commission ("Review Commission"), affirming the Director's redetermination, and disallowing Appellant's application for unemployment benefits on the basis that Appellant was discharged for just cause.

Appellant was employed by Sadar & Associates, Inc. ("Employer") from December 8, 2014 through July 27, 2015, as a senior accountant. Appellant left her employment before the ordinary conclusion of the work day on July 24, 2015. Appellant has asserted that she was discharged due to a medical condition, while Employer claims that Appellant was discharged for just cause after she walked off the job in violation of company policy. Following the termination of her employment, Appellant

filed an application for unemployment compensation benefits with the Ohio Department of Job and Family Services ("ODJFS"). On August 25, 2015, ODJFS issued an initial determination denying the claim on the grounds that Appellant was discharged for just cause under R.C. 4141.29(D)(2)(a). Appellant filed a timely appeal and on September 16, 2015, the Director, ODJFS, issued a redetermination affirming the denial of benefits. Appellant then appealed the redetermination, whereupon ODJFS transferred jurisdiction to the Review Commission. On October 7, 2015, a hearing was held before a Hearing Officer who affirmed the Director's Redetermination and concluded that Appellant was discharged for just cause. The Review Commission then disallowed Appellant's Request for Review. Appellant timely filed the instant appeal.

In her Brief, Appellant argues that the Review Commission's decision is unlawful and should be reversed. Appellant claims that she was asked by her supervisor, Joanne Sadar ("Ms. Sadar"), on Friday July 24, 2015 at 4:10 p.m. to redo certain work. Appellant agreed to meet her twenty minutes later to discuss the revisions. Immediately after Ms. Sadar left Appellant's office, Appellant had a severe panic attack unlike anything she had ever previously experienced. Appellant rushed to her vehicle so she could go home to get her high blood pressure and anti-anxiety medication. While driving home, Appellant attempted to call Ms. Sadar to inform her that she would return to the office shortly; however, while placing the call, she rear-ended the car in front of her. Appellant was not finished with all of the details involving the accident until 6:30 p.m., at which time she attempted to call the office but no one answered. She did not leave a message as she planned to go to the office on Saturday to update her weekly time sheet.

Appellant states that she returned to the office on Saturday afternoon to revise her time sheet to reflect that she had left work at 4:15, and to complete her "To-Do" list. Appellant also left a note for Ms. Sadar apologizing for leaving early on Friday and asking Ms. Sadar to call her on Sunday to discuss the issue; however, Appellant did not receive a return phone call. On Monday July 27th, Appellant received a ride to work at 7:15 a.m. but discovered that she was locked out of the building. She walked to Classic Automotive to obtain a rental car, went home to change her clothes so she could

remove her belongings from her truck, and then went to the car dealership to inquire about purchasing a used car. Appellant then telephoned the office at 9:30 a.m. and Ms. Sadar asked her why she had "walked off" the job. Appellant immediately went to the office to discuss the matter. According to Appellant, she attempted to explain all of the events that had occurred but Ms. Sadar appeared unconcerned about whether Appellant had been injured at all in the accident, and seemed determined to terminate her because she had erroneously concluded that Appellant was "trying to pull one over on her" by leaving the office before 5:00 p.m. Appellant claims that she always worked all hours required, never violated any policies and was never previously written up. Therefore, a first-time offense should not be an automatic termination but rather a warning.

Appellee, Director of ODJFS ("Director"), argues in its Brief that the only issue the court may determine is whether the October 27, 2015 Decision of the Hearing Officer finding that Appellant was discharged with just cause, was unlawful, unreasonable, or against the manifest weight of the evidence. The Director asserts that evidence in the record indicates: (1) Ms. Sadar talked to Appellant on July 24, 2015 at approximately 4:05 p.m. about reviewing some work that needed to be redone, and Appellant stated she would be available "in twenty minutes;" (2) five minutes later Ms. Sadar observed Appellant leaving the building carrying her basil plant, while walking very deliberately across the parking lot to her truck; (3) Appellant's initial time sheet listing a 4:00 p.m. clock-out time, and the revised time sheet listing a 4:15 p.m. clock-out time, both show that Appellant left without permission before the usual 5:00 p.m. conclusion of the work day; (4) Appellant did not notify anyone about her alleged panic attack and never previously made Employer aware of any ongoing medical condition of this nature; and (5) Appellant never provided Employer with a medical excuse to substantiate her illness prior to walking off the job on July 24, 2015, and was not even seen by a physician or prescribed medication for her panic attack until five days after she walked off the job. Accordingly, the Director requests that the decision of the Review Commission be affirmed.

Employer filed a Brief incorporating the facts and arguments propounded by the Director.

Upon review, the Court finds Appellant's appeal not well taken. R.C. 4141.282(H) governs the scope of review of unemployment compensation appeals and provides in pertinent part:

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.

The Eleventh District Court of Appeals has stated that unemployment compensation appeals provide "the least opportunity for a reviewing court to weigh and assess evidence and credibility of witnesses of any R.C. Chapter 119 administrative proceeding." *Fredon Corp. v. Zelenak*, 124 Ohio App.3d 103, 108, 705 N.E.2d 703 (11th Dist. 1997). The fact that reasonable minds might reach different conclusions is not a basis for reversal of the board's decision. *Id.*, citing *Tzangas, Plakas & Mannos v. Ohio Bur. of Emp. Serv.*, 73 Ohio St.3d 694, 697, 653 N.E.2d 1207 (1995). "Where the board might reasonably decide either way, the courts have no authority to upset the board's decision." (Citations omitted.) *Ashtabula v. Rivas*, 11th Dist. No. 2011-A-0020, 2012-Ohio-865, ¶ 16.

The statutory interpretation of just cause "is that which, to an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act." *Irvine v. Unemployment Compensation Review Board*, 19 Ohio St.3d 15, 17, 482 N.E.2d 587 (1985), citing *Payton v. Sun T.V.*, 44 Ohio App.2d 10, 12, 335 N.E.2d 751 (10th Dist. 1975). Just cause determinations in the unemployment compensation context must be consistent with the legislative purpose underlying the Unemployment Compensation Act. "The [A]ct was intended to provide financial assistance to an individual who had worked, was able and willing to work, but was temporarily without employment through no fault or agreement of his own." *Salzl v. Gibson Greeting Cards*, 61 Ohio St.2d 35,

39, 399 N.E.2d 76 (1980). "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." *Rivas* at ¶ 20.

Based upon the record and the testimony of the parties at the hearing, the Hearing Officer found that Appellant walked off the job without permission prior to the conclusion of her regular work hours, she did not answer when Ms. Sadar subsequently telephoned her, she did not inform Employer within a reasonable amount of time that she had experienced a panic attack, and she had not provided prior medical documentation that such an event might occur. The Hearing Officer concluded that based upon these circumstances, Appellant was sufficiently at fault to justify her discharge, and therefore, she was discharged for just cause.

After due consideration of the record in this case, the court finds that the decision of the Review Commission is not unlawful, unreasonable, or against the manifest weight of the evidence. "Concerning the determination of purely factual issues, such as the credibility of witnesses and the weight to be given to conflicting evidence, the reviewing court should defer to the Board of Review's findings." *Fredon Corp. v. Zelenak*, 124 Ohio App.3d 103, 109, 705 N.E.2d 703 (11th Dist. 1997). Since the Review Commission's decision is supported by evidence in the record, the court finds that the decision ought to be affirmed pursuant to R.C. 4141.282(H).

WHEREFORE, it is the order of this court that the decision of the Unemployment Compensation Review Commission finding that Appellant Julie A. Quinn was discharged for just cause from her employment from Sadar & Associates, Inc. is hereby affirmed. Appellant to pay court costs.

IT IS SO ORDERED.



JOHN P. O'DONNELL, JUDGE

Copies to:
Julie A. Quinn, pro se.
Laurence R. Snyder, Asst. Atty. Gen.
Jon L. Lindberg, Esq.

FINAL APPEALABLE ORDER
Clerk to serve pursuant
to Civ.R.58 (B)