

FILED
COLUMBIANA COUNTY
COURT OF COMMON PLEAS

JUL 13 2016

ANTHONY J. DATTILIO
CLERK (CAP)

IN THE COURT OF COMMON PLEAS
COLUMBIANA COUNTY, OHIO

ANNA R. CHESTNUT)	
)	CASE NO. 2016 CV 104
Appellant)	
)	JUDGE WASHAM
-VS-)	
)	
STATE OF OHIO UNEMPLOYMENT)	
COMPENSATION REVIEW)	
COMMISSION, et. al.,)	DECISION AND
)	JUDGMENT ENTRY
Appellees)	

On February 22, 2016 Anna R. Chestnut, as Appellant, filed her Notice of Appeal to this Court from the decision of the State of Ohio Unemployment Compensation Review Commission (Commission), an Appellee herein, dated January 28, 2016. The Record of Proceedings was filed in this case on March 21, 2016. On April 25, 2016 Ms. Chestnut filed her brief in support of her appeal. On June 24, 2016 the Director of the Ohio Department of Job & Family Services (ODJFS), an Appellee herein, filed its brief in support of the decision of the Commission. On July 11, 2016 Ms. Chestnut filed her reply brief in support of her appeal.

The merits of the Notice of Appeal are now before the Court for further consideration and decision.

Legal Standard

This Court reviews the decision of the Commission based on the record certified by the Commission. ¹ This Court shall reverse, vacate, or modify the decision, or remand the matter to the Commission only upon finding that the

¹ R.C. § 4141.282(H).

decision of the Commission was unlawful, unreasonable, or against the manifest weight of the evidence. Otherwise, the decision of the Commission shall be affirmed.²

The determination of purely factual questions is primarily within the province of the hearing officer and the Commission.³ Every reasonable presumption should be made in favor of the Commission's decision and findings of fact.⁴ On review of purely factual questions, the common pleas court is limited to determining whether the hearing officer's determination is supported by evidence in the record.⁵ Factual findings supported by some competent, credible evidence going to the essential elements of the controversy must be affirmed.⁶ Moreover, when the Commission could have reasonably decided a just-cause issue either way, the courts have no authority to overrule that decision.⁷

Analysis

The Hearing Officer disallowed Ms. Chestnut's application for unemployment compensation, finding that she was terminated from her employment at City Hospital Association, Inc. (City Hospital) for "just cause."⁸ An individual is not eligible for benefits if the individual was discharged for just

² Id.

³ Gen Die Casters, Inc. v. ODJFS (2015), Not reported in N.E. 2d, 2015 WL 5728457 (Ohio App. Dist 9), 2015-Ohio-4033 ¶ 8 (citations omitted).

⁴ Karches v. Cincinnati (1988), 38 Ohio St. 3d 12, 19, 526 N.E. 2d 1350.

⁵ Tzangas, Plakas, & Mannos v. Ohio Bur. Employment Services (1995), 73 Ohio St. 3d 694, 697, 653 N.E. 2d 1207, 1995-Ohio-206.

⁶ C.E. Morris Co. v. Foley Constr. (1978), 54 Ohio St. 2d 279, 376 N.E. 2d 578, syllabus.

⁷ City of Struthers v. Morell (2005), 164 Ohio App. 3d 709, 843 N.E. 2d 1241, 2005-Ohio-6594, ¶ 14.

⁸ See, Decision, mailed December 16, 2015, attached as Exhibit A to Brief of ODJFS, page 4 of 5.

cause in connection with work.⁹ According to the Ohio Supreme Court, "just cause" is defined as "that which, to an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act."¹⁰ Whether just cause for termination of employment exists requires an examination of the unique facts of each case.¹¹ The Supreme Court has determined that what constitutes just cause must be analyzed in conjunction with the legislative purpose underlying the Unemployment Compensation Act, which is to provide financial assistance to an individual who had worked, was able and willing to work, but was temporarily without employment through no fault of his or her own.¹²

Ms. Chestnut was employed by City Hospital for nearly 30 years, mainly in the Business Office. When the Business Office was outsourced at the end of 2013, Ms. Chestnut "bumped" into the lab in order to keep her seniority and her insurance benefits.¹³ Ms. Chestnut worked as a lab clerk at City Hospital for approximately 1 1/2 years before her discharge.¹⁴

Mr. Delmas Postletwaite, Jr. testified before the Commission as the administrative director of the lab at City Hospital.¹⁵ His testimony included the responsibilities of a lab clerk and the progressive disciplinary policy at City

⁹ See, R.C. § 4141.29(D)(2)(a), (G); City of Struthers v. Morell, 2005-Ohio-6594, ¶ 11.

¹⁰ Irvine v. Unemployment Comp. Bd. of Review (1985), 19 Ohio St. 3d 15, 17, 482 N.E. 2d 587 quoting Peyton v. Sun T.V. & Appliances (1977), 44 Ohio App. 2d 10, 12, 335 N.E. 2d 751.

¹¹ Id.; See, also, Univ. of Toledo Chap. of Am. Assn. of Univ. Professors v. Erard (2015), Not reported in N.E. 2d, 2015 WL 3990887 (Ohio App. Dist. 6), 2015-Ohio-2675, ¶ 7.

¹² Irvine v. Unemployment Comp. Bd. of Review, 19 Ohio St. 3d at 17, quoting Salzi v. Gibson Greeting Cards (1980), 61 Ohio St. 3d 35, 39, 399 N.E. 2d 76.

¹³ See, Record of Proceedings, Director's File, Application Summary of Ms. Chestnut, page 7; Transcript of Testimony (Transcript), page 32.

¹⁴ Transcript, pages 5, 21, 32.

¹⁵ Id., page 5.

Hospital.¹⁶ He testified that Ms. Chestnut was terminated for "continued performance issues" and that she was ultimately terminated for making the same errors "over and over and over again."¹⁷ Mr. Postletwaite detailed how City Hospital followed its progressive disciplinary policy before terminating Ms. Chestnut.¹⁸

Ms. Chestnut did not offer evidence contradicting the testimony of Mr. Postletwaite. She agreed she was terminated for concerns over her job performance.¹⁹ She agreed she had received disciplinary action as a result of the employer's concern with her job performance, some of which concerns she agreed were accurate.²⁰ Ms. Chestnut agreed that City Hospital followed its progressive disciplinary procedure before she was ultimately terminated.²¹ Ms. Chestnut did not timely file a grievance through her union as a result of the disciplinary action or her termination.²²

Conclusion

Based upon is review of the record, this Court finds that the employer had just cause to terminate Ms. Chestnut from her employment. This Court is unable to finds that the decision of Commission was unlawful, unreasonable, or against the manifest weight of the evidence. To the contrary the Decision is fully supported by the record. Accordingly the Decision of the Commission is hereby

¹⁶ Id., page 6

¹⁷ Id., pages 6, 16

¹⁸ Id., pages 6-11.

¹⁹ Id., page 21.

²⁰ Id., pages 21-22, 24.

²¹ Id., pages 22-26.

²² Id., pages 23, 25-26, 30.

affirmed in all respects and judgment is rendered in favor of the Appellees and against the Appellant on the Notice of Appeal.

The costs of this action are hereby taxed against Appellant, Anna R. Chestnut.

Pursuant to Civ. R. 58(B), the Clerk of this Court is requested to serve upon all parties not in default a notice of this judgment and the date of entry upon the journal.

IT IS SO ORDERED.

July 13, 2016



Scott A. Washam, Judge

CC: M. Eric Frankovitch, Esq.
Susan M. Sheffield, Esq.