

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

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| PAR ACQUISITION COMPANY, INC. |) | CASE NO.: CV-16-865508 |
| |) | |
| Appellant |) | JUDGE MAUREEN CLANCY |
| |) | |
| vs. |) | |
| |) | |
| DIRECTOR, |) | <u>ORDER AND OPINION</u> |
| OHIO DEPARTMENT OF JOB AND |) | |
| FAMILY SERVICES, et al., |) | |
| |) | |
| Appellees |) | |

STATEMENT OF THE CASE

This cause of action was initiated by Appellant on June 30, 2016, as an administrative appeal of the decision of the Unemployment Compensation Review Commission dated May 4, 2016, in which the granting of unemployment benefits to Appellee Trennae Roe was affirmed. Following the decision, Appellant filed a request for a review with the Unemployment Compensation Review Commission, which was denied on June 8, 2016.

In its decision, the Commission found that Appellee Roe quit her job with Appellant for just cause, as Roe was required to work under unsanitary conditions.

The Record in this matter was filed on August 1, 2016. Appellant filed its Assignment of Error and Brief on August 19, 2016. Appellee Ohio Department of Job and Family Services filed its Brief on August 26, 2016. Appellant then filed its Reply Brief on September 2, 2016. This matter is now before the Court on consideration of Appellant's administrative appeal of the decision of the Unemployment Compensation Review Commission.

LAW AND ANALYSIS

Under ORC § 4141.29(D)(2)(a), unemployment benefits may not be paid to an individual who quit work without just cause. "Just cause" is defined as "that which, to an ordinarily

intelligent person, is a justifiable reason for doing or not doing a particular act.” Turner v. Mission Essential Personnel, LLC, 2012-Ohio-5470, at ¶ 9, 2012 Ohio App. LEXIS 4755 (Ohio Ct. App. 10th Dist., Nov. 27, 2012). “In cases in which an employee encounters circumstances that might force resignation, the employee must first notify the employer of problems prior to resigning or risk a finding of resignation without just cause.” Turner, 2012-Ohio-5470, at ¶ 9, citing DiGiannantoni v. Wedgewater Animal Hosp., Inc., 109 Ohio App.3d 300, 671 N.E.2d 1378 (Ohio Ct. App. 10th Dist. 1996). “The purpose of such notice is to provide the employer an opportunity to resolve the conflict before the employee is forced to resign.” Id. “Notice to the employer, however, is not alone enough to establish just cause; the employer must have a realistic opportunity to correct the problem.” Id. “However, where an employee’s initial complaints do not prompt the employer to change her working conditions, the employee may be relieved of her duty to pursue further internal remedies.” Loughman v. Ohio Dep’t of Pub. Safety, 2016-Ohio-1086 at ¶ 9, 2016 Ohio App. LEXIS 984 (Ohio Ct. App. 10th Dist. March 17, 2016).

Pursuant to ORC § 4141.282(H), when reviewing a decision of the Unemployment Review Commission, “[i]f 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.”

“Reviewing courts are precluded from making factual determinations or determining the credibility of witnesses in unemployment compensation cases—that is the commission’s function as the trier of fact, and reviewing courts must defer to the commission on factual issues regarding the credibility of witnesses and the weight of conflicting evidence.” Sinclair v. Ohio Dep’t of Job

and Family Servs., 2015-Ohio-1645, at ¶ 7, 2015 Ohio App. LEXIS 1586 (Ohio Ct. App. 8th Dist., April 30, 2015). “The courts’ role is to determine whether the decision is supported by some competent, credible evidence on the record. If there is evidence in the record to support the commission’s decision, a reviewing court cannot substitute its own findings of fact for those of the commission.” Sinclair, 2015-Ohio-1645, at ¶ 7. “Moreover, every reasonable presumption should be made in favor of the commission’s decision and findings of fact.” Id., citing Banks v. Natural Essentials, Inc., 2011-Ohio-3063, at ¶ 23 (Ohio Ct. App. 8th Dist., June 23, 2011). “The fact that reasonable minds might reach different conclusions is not a basis for the reversal of the board’s decision. When the board might reasonably decide either way, the courts have no authority to upset the board’s decision.” Id., citing Irvine v. State, Unemployment Compensation Bd. of Review, 19 Ohio St.3d 15, 18, 482 N.E.2d 587 (Ohio 1985).

Here, Appellee Roe stated that she notified Appellant of the unsanitary conditions in her workplace. Appellee Roe stated that she spoke to two different supervisors to notify them of the conditions, and the unsanitary conditions were not remedied. This Court therefore finds that Appellee Roe presented evidence that she notified Appellant of the unsanitary conditions before she quit her job, and her complaints did not prompt Appellant to change her working conditions.

In this case, the Review Commission found that Appellee Roe quit her job with just cause, and this Court finds that the Unemployment Compensation Review Commission’s decision is supported by some competent, credible evidence on the record. Further, this Court finds that the Commission’s decision was not unlawful, unreasonable, or against the manifest weight of the evidence.

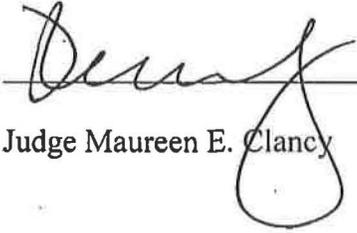
CONCLUSION

Therefore, the decision of the Unemployment Compensation Review Commission is affirmed, and Appellant's administrative appeal is denied.

SO ORDERED:

10/20/14

Date



Judge Maureen E. Clancy

