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2016 CV 0594

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IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, OHIO

DOROTHY J. CLARK,	*	JUDGE TYGH M. TONE
	*	
PLAINTIFF-APPELLANT,	*	CASE NO. 2016 CV 0594
	*	
vs.	*	
	*	
UNEMPLOYMENT COMPENSATION	*	<u>JUDGMENT ENTRY</u>
REVIEW COMMISSION, et al.,	*	
	*	
DEFENDANTS-APPELLEES.	*	

This cause is before the court on appeal from a determination by the Ohio Unemployment Compensation Review Commission finding that appellant Dorothy J. Clark was not eligible for unemployment benefits because she did not participate in the required reemployment activities. Upon review of the memorandum submitted by the parties, the evidence, and the applicable law, the Court affirms the decision of the UCRC and dismisses the appeal.

I.

Ms. Clark was initially awarded unemployment benefits by appellee Director, Ohio Department of Job and Family Services (ODJFS) on July 17, 2015. In its June 2, 2016 redetermination, ODJFS reversed the July 17, 2015 decision, finding that Ms. Clark was ineligible for benefits for the period beginning April 24, 2016 for two reasons. First, she did not upload an active and updated resume to OhioMeansJobs.com as required by law. Second, she did not complete a required career-profile assessment.

On July 19, 2016, the hearing officer affirmed ODJFS's redetermination. On August 8, 2016 Ms. Clark submitted a request for final administrative review. This request was denied by the Review Commission.

On August 17, 2016 Ms. Clark filed this R.C. 4141.282 administrative appeal, and, subsequently, her brief.

## II.

Ms. Clark filed for unemployment benefits and received a New Claim Instruction Sheet. The New Claim Instruction sheet stated that Ms. Clark had to complete two reemployment activities. One was to upload an updated resume and the other was to complete a career-profile assessment. If Ms. Clark failed to complete either of these requirements, unemployment compensation benefits would be withheld.

Ms. Clark admitted that she read the above instructions and that she neither uploaded a resume to OhioMeansJobs.com nor completed her career-profile assessment. She claims that she "instructed that [she] had a return date" and she was "instructed to just do the job search" by her employer.

Further, Ms. Clark admitted that she realized that she had to upload a resume to OhioMeansJobs.com when she spoke to an employee of the Ohio Means Jobs Center on May 12, 2016. She then proceeded to complete her resume with the help of an Ohio Means Job Center employee, who told her that upon completion of her resume, she was finished with the process and assumed that the career-profile assessment had been completed. Ms. Clark stated that she "knew nothing of a career profile" and was "computer illiterate," so she also assumed that it had been completed.

The hearing officer modified the redetermination but still found that Ms. Clark was ineligible for benefits for the period between April 24, 2016 and May 14, 2016 because she did not complete the career-profile assessment without good cause.

### III.

The Court is required to observe the standard of review set forth in R.C. 4141.282(H) when considering appeals of decisions rendered by the Review Commission. That section states:

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 remand the matter to the commission. Otherwise, the court shall affirm the decision of the commission.

This strict standard of review was reiterated in *Bernard v. Ohio Unemp. Comp. Rev. Comm.*, 136 Ohio St.3d 264, 2013-Ohio-3121, at ¶9.

### IV.

Ms. Clark presents two arguments urging the reversal of the Review Commission's decision. First, she claims that she relied on her employer's advice that she was not required to complete the Ohio Means Jobs requirements, but instead simply complete a job search. Second, she asserts that she also relied on an Ohio Means Jobs Center employee's assurances that she had completed the documentation requirements once she had uploaded a new resume.

Regarding her first claim, it is undisputed that Ms. Clark did not file a required career-profile assessment. See R.C. 4141.29(A)(7), which requires an applicant to participate "in reemployment and eligibility assessment program, or other reemployment services, as required by the director." These "requirement services" include "skills assessments." *Id.* Thus, regardless of whether her employer may have told her, she simply did not fulfill her statutory requirements. It is self-evident that she could not rely on an erroneous advice.

As for her second claim, relying on the Ohio Means Jobs employee’s allegedly wrong advice similarly does not justify Ms. Clark’s failure to complete the required career-profile assessment. The Ohio Supreme Court “has refused to apply principals [sic] of equitable estoppel against the state, its agencies or its agents, under circumstances involving an exercise of governmental functions.” *Hannan v. Ohio Bur. of Emp. Servs.*, 8th Dist. No. 74779 (Oct. 21, 1999), 1999 WL 961492, at \*3, quoting *Griffith v. J.C. Penney Co.*, 24 Ohio St.3d 112, 113-114 (1986). “[E]ven misadvice by a state [employee] does not excuse noncompliance with statutory requirements.” *Mateer v. Ohio Dept. of Job & Family Servs.*, 10th Dist. No. 07AP-966, 2008-Ohio-1426, ¶5.

Finally, the Court recognizes that Ms. Clark is representing herself in this case. However, “[i]t is well established that pro se litigants are presumed to have knowledge of the law and legal procedures and that they are held to the same standard as litigants who are represented by counsel.” *State ex rel. Fuller v. Mengel*, 100 Ohio St.3d 352, 2003-Ohio-6448 (citation omitted). As a pro se litigant, appellant has no “greater rights than represented parties, and must bear the consequences of his mistakes.” *Kendall v. Kendall*, 6th Dist. No. OT-08-054, 2009-Ohio-4607, ¶43 quoting *Murphy-Kesling v. Kesling*, 9th Dist. No. 24176, 2009-Ohio-2560 ¶13. See also *Meyers v. First Natl. Bank of Cincinnati*, 3 Ohio App.3d 209, 210 (1st Dist.1981). This maxim specifically applies in R.C. 4141.282 unemployment-compensation administrative appeals. See *Rupert v. Ohio Dept. of Job & Family Servs.*, 6<sup>th</sup> Dist. No. L-14-1139, at ¶15 (citation omitted); *Sigler v. Dir., Ohio Dept. of Job & Family Servs.*, 6<sup>th</sup> Dist. No. L-05-1016, 2005-Ohio-4874, ¶1, fn. 1 (citation omitted).

“The rationale for this policy is that if the court treats pro se litigants differently, ‘the court begins to depart from its duty of impartiality and prejudices the handling of the case as it

relates to other litigants represented by counsel.” *Goodrich v. Ohio Unemp. Comp. Rev. Comm.*, 10<sup>th</sup> Dist. No. 11AP-473, 2012-Ohio-467, ¶25 quoting *Pinnacle Credit Servs., LLC v. Kuzniak*, 7th Dist. No. 08 MA 111, 2009-Ohio-1021, ¶ 31; *Karnofel v. Kmart Corp.*, 11th Dist. No. 2007-T-0036, 2007-Ohio-6939, ¶ 27 quoting *State v. Pryor*, 10th Dist. No. 07-AP-90, 2007-Ohio-4275, ¶9.

V.

The Court finds that the decision of the UCRC is not unlawful, unreasonable, or against the manifest weight of the evidence. As such, its decision will be upheld.

Appellant’s appeal is denied.

Journalized 06/22/2017	/s/ TYGH M TONE, Judge
<b>Signed</b> 2017 Jun 21 PM 3 44	Erie County Common Pleas Court Judge Tygh M. Tone