



FILED
LORAIN COUNTY

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COURT OF COMMON PLEAS
TOM ORLANDO

LORAIN COUNTY COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO
TOM ORLANDO, Clerk
JOURNAL ENTRY
Mark A. Betleski, Judge

Date 10/3/17

Case No. 13CV182273

BRIAN LILLY

Plaintiff

DAVID MULLEN

Plaintiff's Attorney

(216)739-5080

VS

JOE FIRMENT CHEVROLET INC

Defendant

Defendant's Attorney

The Appellant Brian Lilly's appeal from the final decision of the Ohio Unemployment Compensation Review Commission (UCRC) denying Appellant's claim for unemployment benefits came before the court for consideration. The court has reviewed the Appellant's brief, Appellee Director, Ohio Department of Job and Family Services brief in opposition along with the certified transcript of record of proceedings.

In the present case the Appellant's claim for unemployment benefits was disallowed and denied on the basis that he was discharged from his employment for just cause pursuant to RC 4141.29(D)(2)(a). The determination of what constitutes "just cause" for discharge has been defined as "that to which an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act." *Irvine v. Unemp.Bd. of Rev.* (1985), 19 Ohio St.3d 15,16-18. An employee's actions need not rise to the level of deliberate misconduct, but there must be a showing of some fault by the employee. *Tzangas, Plakas, & Mannos v. Ohio Bur. Of Employ. Serv.*, 73 Ohio St. 3d 694 (1995). The burden of proof in a statutory unemployment case is on the employee to prove that he was discharged without just cause. On appeal it is the obligation of the employee to point to evidence in the record that supports his allegations. *Lynch v. City of Youngstown* (1966), 115 Ohio App 3d 209.

The standard of review that must be applied by this court in this unemployment compensation benefits appeal is set forth in R.C. 4141.282(H). This section provides as follows:

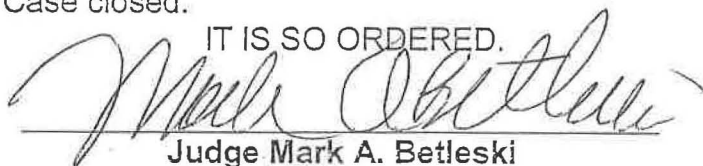
The court shall hear the appeal upon the certified record provided by the commission. If the court finds that the decision of the commission was unlawful, unreasonable, or against the manifest weight of the evidence, it shall reverse, vacate, or modify the decision, or remand the matter to the commission. Otherwise, the court shall affirm the decision of the commission.

As the trier of fact the UCRC and its hearing officers are vested with the power to review the evidence and to believe or disbelieve the testimony of the witnesses. A common pleas court in an unemployment benefit case, must defer to the UCRC and its hearing officers with respect to purely factual issues that concern the credibility of witnesses and the weight of conflicting evidence. See *Irvine, Tzangas and Westphal v. ODJFS*, 9th Dist. No. 09CA9602, 2010 Ohio 190. A decision supported by some competent, credible evidence will not be reversed as being against the manifest weight of the evidence. *Angelkovski v. Buckeye Potato Chips Co.*, 11 Ohio App. 3d 159 (1983).

In this case the UCRC weighed the evidence and concluded there was sufficient misconduct by the Appellee to justify his discharge. The UCRC found the Appellee's discharge by Joe Firement Chevrolet Inc. was for just cause. This court finds that there is evidence in the certified record to support that decision. It is the finding of this court that the decision of the UCRC was not unlawful, unreasonable or against the manifest weight of the evidence and it is affirmed.

Final judgment is hereby granted in favor of the Appellee. Costs to the Appellant. This is a final appealable order. Case closed.

IT IS SO ORDERED.



Handwritten signature of Judge Mark A. Betleski in cursive script, written over a horizontal line.

Judge Mark A. Betleski

cc: Savinski, Snyder

TO THE CLERK: THIS IS A FINAL
APPEALABLE ORDER
PLEASE SERVE UPON ALL PARTIES NOT IN
DEFAULT FOR FAILURE TO APPEAR,
NOTICE OF THE JUDGMENT AND
ITS DATE OF ENTRY UPON THE JOURNAL.