

IN THE COURT OF COMMON PLEAS

COUNTY OF SUMMIT

| | | |
|----------------------------|-------|-------------------------------|
| MICHAEL D. MALONE |) | CASE NO. CV-2016-09-3893 |
| |) | |
| Appellant |) | JUDGE AMY CORRIGALL JONES |
| -vs- |) | |
| |) | |
| COUNTRY HOMES & REMODELING |) | <u>ORDER</u> |
| LLC., et al. |) | |
| |) | (Final and Appealable) |
| Appellee |) | |
| |) | |
| | - - - | |

This cause came before the Court upon the Administrative Appeal filed by Appellant, Michael D. Malone. This appeal is taken from the August 17, 2016, decision of the State of Ohio Jobs and Family Services (ODJFS) that claimant was discharged from employment with just cause and disallowed claimant’s application for benefits.

Appellant timely filed this appeal on September 12, 2016. A submission of a copy of the director’s file and a copy of the U.C. Review Commission including a transcript of the testimony was filed on October 12, 2016.

FACTS

Appellant worked for Appellee Country Homes and Remodeling from August, 2011 until his discharge from employment April, 2016. Appellant’s last working day was February 1, 2016. Appellant’s girlfriend contacted the employer to advise that Appellant was incarcerated. Appellant argues that he was advised that his employer would keep his job open for him until he was released from jail. However, after about 6-8 weeks the employer decided it could no longer hold the job open and terminated appellant.

On May 24, 2016, the ODJFS issued an initial decision that the appellant was disallowed from receiving unemployment benefits. Appellant timely appealed this decision. On June 20, 2016, the Director affirmed the decision to disallow benefits. Appellant appealed. On July 25, 2016, the review commission hearing officer conducted a telephonic evidentiary hearing. On July 25, 2016, the decision to disallow benefits was upheld. On August 3, 2016, appellant requested further review by the Review Commission. On August 7, 2016, the Review Commission disallowed appellant's request. Thereafter, Appellant filed his appeal.

LAW AND ANALYSIS

In reviewing an administrative decision pursuant to R.C. 4141.282(H) the standard for review is as follows:

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.

An individual is ineligible for unemployment compensation benefits when he or she has been terminated from employment by reason of commitment to any correctional institution, O.R.C. 4141.29(D)(2)(d). Appellant does not dispute that he was incarcerated. The employer testified that the sole reason for appellant's termination was his incarceration from February 2, 2016 until May 3, 2016. Employer testified that the decision to terminate was made prior to appellant's release from jail.

Based upon the evidence before this Court and the applicable law, this Court finds that the Review Commission's decision denying unemployment compensation benefits to appellant is supported by the manifest weight of the evidence, is lawful and reasonable.

It is ORDERED AND ADJUDGED this Administrative Appeal by the Appellant is DENIED.

It is FURTHER ORDERED AND ADJUDGED that the decision of the Review Commission is AFFIRMED.

This is a final and appealable order.

There is no just cause for delay.

The Clerk of the Summit County Common Pleas Court shall serve a copy of this Order upon the Appellant, Michael D. Malone, by U.S. Mail, Certificate of Service, noting return of same.

FAILURE TO ATTEND A COURT APPEARANCE OR FAILURE TO COMPLY WITH THIS COURT ORDER OR ANY OTHER COURT ORDER SHALL RESULT IN SANCTIONS, INCLUDING BUT NOT LIMITED TO, DISMISSAL OR ADVERSE JUDGMENT.

IT IS SO ORDERED.



JUDGE AMY CORRIGALL JONES

CC: ATTORNEY SUSAN M. SHEFFIELD
APPELLANT, MICHAEL D. MALONE