



IN THE COURT OF COMMON PLEAS
STARK COUNTY, OHIO

MICHAEL F. KELLY,)	CASE NO. 2016 CV 2808
)	
PLAINTIFF(S),)	JUDGE FUHRY
)	(Sitting by assignment)
VS.)	
)	ORDER
STARK COUNTY COMMISSIONERS OFFICE,)	
ET AL.,)	
)	
DEFENDANT(S).)	

This matter came on for consideration on the Appellant/Claimant/Employee, Michael F. Kelly ("Appellant") appeal of the decision of the Unemployment Compensation Review Commission's decision entered October 28, 2016. The decision reaffirmed the Directors Redetermination of August 31, 2016.

The hearing officer concluded in her decision that Appellant quit his employment without just cause. Appellant argues otherwise and he has perfected his appeal pursuant to O.R.C Section 4141.282 which this Court addresses herein.

As a part of the arguments presented by counsel there were two Motions to Strike filed: 1) Stark County Prosecuting Attorney filed a Motion to Strike Appellant's Reply Brief on April 28, 2017; and 2) Appellant filed a Motion to Strike on May 5, 2017, seeking to strike portions of the Administrative record referencing Appellee Stark County Board of Commissioners and all filings of the Board.

On consideration, the foregoing Motions to Strike are hereby Ordered denied.

On further consideration, the Court, pursuant to O.R.C. Section 4141.282 (H) hereby denies Appellant's Appeal and affirms the decision of the Commission. The court finds the decision of the Commission not unlawful, unreasonable, or against the manifest weight of the evidence. The Appellant quit his employment without just cause because he did not pursue all available options before quitting – such as speaking with Judge Park about his unhappiness with her attitude towards and treatment of him. See *DiGiannantoni v. Wedgewater Animal Hosp., Inc.* (1996), 109 Ohio App.3d 300. Appellant's reluctance


to do so is based upon his fear of her and his claim that if he did so, he would be terminated. However, the inference that he would be terminated is not supported by evidence. The Appellants belief in this regard does not rise to a reasonable inference but is no more than a suspicion. He had not previously been disciplined or threatened with discharge. Further, any perception that Appellant harbored that he was being harassed by the Judge does not create just cause to quit. See *Morris v. ODJFS, et al*, 2002-Ohio-5250 (7th. Dist. COA).

Appellant's evidence - even if accepted as true in its entirety - may indicate that his treatment was uneven and unpredictable. Judge Park may have exhibited an imperious and autocratic management style. But nothing in the record suggests that such factors rose to the level that they were tantamount to just cause to terminate one's employment. This court is bound to accept the factual findings of the hearing officer if supported by some credible evidence.

Further found that the Court's alleged uneven treatment of attorneys practicing before it, while possibly relevant in a professional conduct inquiry, is not relevant to deciding the instant case.

Wherefore the decision of the Commission is ordered affirmed. Costs taxed to Appellant.

IT IS SO ORDERED.



JUDGE

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