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LUCAS COUNTY

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COMMON PLEAS COURT  
BERNIE QUILTER  
CLERK OF COURTS

**IN THE COURT OF COMMON PLEAS, LUCAS COUNTY, OHIO**

SARA E. GREEN-HAMILTON,  
Plaintiff-Appellant

vs.

DECA HEALTH INC., ET AL.,  
Defendants-Appellees.

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Case No. G-4801-CI-201703049-000

**OPINION AND JUDGMENT ENTRY**

JUDGE GENE A. ZMUDA

This matter comes before the Court upon the Administrative Appeal of plaintiff-appellant Sara E. Green-Hamilton (“Green-Hamilton”), filed pursuant to R.C. 4141.282. On November 9, 2017, defendant-appellee Director, Ohio Department of Job and Family Services (“Director”), filed the Brief of Appellee. The matter is now decisional.<sup>1</sup>

**I. Background**

This matter is an administrative appeal of a denial of unemployment compensation

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<sup>1</sup> On September 1, 2017, the Court granted the Director’s Motion to Strike as to the Appellant Brief filed by plaintiff-appellant Green-Hamilton in support of her appeal, as the Brief presented matters beyond the scope of the certified record, as permitted under R.C. 4141.282. The Court granted additional time for Green-Hamilton to file an Appellant Brief, but no Brief was filed. Accordingly, on October 19, 2017, the Court ordered the Director to file either the Brief of Appellee or waiver of argument, with the matter thereafter deemed decisional. *See* Order (Oct. 19, 2017).

benefits, properly perfected pursuant to R.C. 4141.282. Defendant-Appellee Deca Health Inc. (“Deca Health”) employed Green-Hamilton from March 13, 2013 until December 6, 2016, and at the time of separation, Green-Hamilton worked as a lab technician.<sup>2</sup> On December 5, 2016, Green-Hamilton was involved in an incident at the clinic, and a Deca Health human resources representative, Dawn Plasencio, delivered a final written warning based on the incident the next day.<sup>3</sup> Green-Hamilton received the written warning at her workplace, and requested FMLA paperwork from Plasencio. Within minutes of the request, however, Green-Hamilton returned her ID badge and key card to the front desk clerk, Alexandria Blair, and walked out.<sup>4</sup>

Green-Hamilton applied for unemployment compensation benefits with the Ohio Department of Job and Family Services, and ODJFS initially allowed benefits, based on a finding that Deca Health terminated employment without just cause. Deca Health sought internal reconsideration, and the decision was affirmed. Deca Health appealed this ruling, arguing Green-Hamilton quit, and was not terminated by Deca Health, and the matter was transferred to the Unemployment Compensation Review Commission.

On March 29, 2017, Hearing was held before the Review Commission. Plasencio, Blair, and Green-Hamilton appeared and provided testimony.

On March 30, 2017, the Review Commission Hearing Officer issued findings of fact, and reversed the previous determination, disallowing unemployment compensation benefits. Specifically, the Hearing Officer found that the facts demonstrated Green-Hamilton quit work without just cause. In reaching the Decision, the Hearing Officer determined:

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<sup>2</sup> Certified Transcript of Proceedings (Jul. 10, 2017), Review Commission File, Transcript of Hearing, 6-7.

<sup>3</sup> Transcript, 7; 10.

<sup>4</sup> Transcript, 7; 13-14; 15-16.

On the morning of December 6, Ms. Plasencio gave claimant a final written warning for an incident that had occurred the day before when claimant had used profanity and caused a disturbance. Claimant signed this warning. During this disciplinary meeting, claimant asked for FMLA paperwork. Ms. Plasencio went back to her office to prepare the FMLA paperwork. While she was in her office, Ms. Plasencio received a phone call that claimant had turned in her ID badge and key card to Ms. Blair and walked out. Prior to claimant leaving, she had not been told she was being fired or that she needed to leave.

Based on the facts adduced at Hearing, the Hearing Officer determined that:

The facts establish that claimant quit work. The question, therefore, before the Hearing Officer is whether claimant quit work with or without just cause. \* \* \*

\* \* \*

Quitting is a drastic measure, and should only be done as a last available option. Here, based on the available evidence and witness testimony, it cannot be found that claimant acted reasonably or as an ordinarily prudent person would in a same or similar situation before deciding to quit. While claimant contends that Ms. Plasencio used profanity and told her to leave, Ms. Plasencio offered credible testimony that she did not use profanity towards claimant nor did she tell claimant to leave. Claimant also alleges that Ms. Plasencio refused to allow her to see one of the doctors as a patient.<sup>5</sup> However, Ms. Blair offered credible testimony that Dr. Weiss did not want to see claimant as a patient due to a conflict of interest. Claimant also contends that she had asked for FMLA paperwork several times but her request had been denied. Ms. Plasencio credibly testified that the first time she learned that claimant wanted FMLA paperwork was December 6. It has not been shown that claimant took all steps to keep her job or that she had good cause to quit her job on December 6. This is a disqualifying separation.

The Hearing Officer found the testimony of Plasencio and Blair credible, and the actions of Green-Hamilton in quitting, without taking all steps to keep her job, unreasonable.<sup>5</sup> The Hearing Officer also determined Green-Hamilton had received overpayment of benefits, as a result of the disallowance of benefits, previously granted, suspending unemployment

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<sup>5</sup> Certified Transcript of Proceedings, Review Commission File, Decision, 3-4.

compensation benefits beginning December 4, 2016.<sup>6</sup> Green-Hamilton requested review of the Decision, and on May 18, 2017, the Commission issued its Decision Disallowing Request for Review.

On June 16, 2017, Green-Hamilton filed her Notice of Appeal, attaching the final Decision Disallowing Request for Review. In her Notice of Appeal, Green-Hamilton named all designated “interested parties,” and also named the Review Commission as a party. On June 29, 2017, the Director filed a Motion to Remove Review Commission as a Party, which the Court granted.<sup>7</sup>

On July 10, 2017, the Review Commission filed the certified record. On July 17, 2017, the Court issued a Briefing Schedule.

On July 31, 2017, Green-Hamilton served written discovery requests on the Director. On August 3, 2017, the Director filed her Objection to Appellant’s Request for Production of Documents.

On August 9, 2017, Green-Hamilton filed her Appellant Brief, referencing matters beyond the record.<sup>8</sup> On August 10, 2017, the Director filed a Motion to Strike the Appellant Brief. On August 17, 2017, Green-Hamilton filed a Memorandum in Opposition to the Motion to Strike. On August 23, 2017, the Director filed a Reply brief, as well as a request for additional

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<sup>6</sup> Decision, 4.

<sup>7</sup> Order (Jul. 17, 2017).

<sup>8</sup> In her Appellant Brief, Green-Hamilton argued matters unrelated to the incidents of December 5 and December 6, 2016, instead offering testimony not presented at hearing to refute the testimony of Plasencio on behalf of Deca Health. The new testimony related to Deca Health’s knowledge of Green-Hamilton’s medical conditions and prior accommodations provided by Deca Health, including prior medical leaves and discussions of FMLA. The issue at Hearing before the Review Commission, however, was whether Green-Hamilton quit on December 6, 2016, without just cause. The additional testimony Green-Hamilton purported to add to the certified record was not information considered by the Hearing Officer in reaching the determination, disallowing benefits.

time to file the Appellee Brief.

On August 31, 2017, the Court sustained the Director's Objection, noting that review under R.C. 4141.282 is limited to the certified record filed by the Commission, and ordered the Appellant Brief stricken.<sup>9</sup> The Court granted Green-Hamilton leave to file her Appellant Brief, but no Brief was filed. On October 19, 2017, the Court noted the failure of Green-Hamilton to file an Appellant Brief, and granted the Director leave to file an Appellee Brief or waiver of argument, as an appeal under R.C. 4141.282 may proceed solely on the certified record.<sup>10</sup> On November 9, 2017, the Director filed an Appellee Brief.

## II. Administrative Appeal

The purpose of unemployment compensation benefits is to "provide financial assistance to those who find themselves unemployed through no fault of their own." *Elliott v. Bedsole Transp., Inc.*, 6<sup>th</sup> Dist. Lucas No. L-11-1004, 2011-Ohio-3232, ¶ 13. As claimant, Green-Hamilton bears the burden of proving entitlement to benefits, including the requirement to submit information to ODJFS in support of her claim within the administrative proceedings. *Chenault v. Ohio Dept. of Job and Family Servs.*, 194 Ohio App.3d 731, 2011-Ohio-3554, 957 N.E.2d 858, ¶ 10; ¶ 13 (10<sup>th</sup> Dist.)

An appeal of the disallowance of unemployment compensation benefits is governed by R.C. 4141.282, with the Court's review limited as provided by R.C. 4141.282(H):

The court shall hear the appeal on 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

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<sup>9</sup> Order (Aug. 31, 2017).

<sup>10</sup> Order (Oct. 19, 2017).

commission.

The Court's authority in hearing an administrative appeal is limited to a determination of whether the decision of the Commission is supported by evidence in the record. *Kilgore v. Board of Review*, 2 Ohio App.2d 69, 71, 206 N.E.2d 423 (4<sup>th</sup> Dist. 1965). The fact that reasonable minds might reach different conclusions provides no basis to reverse the Commission's decision. *Craig v. Bur. of Unemp. Comp.*, 83 Ohio App. 247, 260, 83 N.E.2d 628 (1<sup>st</sup> Dist. 1948); *Irvine v. Unemp. Comp. Bd. of Review*, 19 Ohio St.3d 15, 18, 482 N.E.2d 587 (1985). Because a hearing officer "is in the best position to determine purely factual questions[.]" the Court "must accept the hearing officer's factual findings if there exists competent, credible evidence to support those findings." *Friedel v. Quota*, 6<sup>th</sup> Dist. Williams No. WM-15-002, 2015-Ohio-4060, ¶ 11, citing *DS Express Carriers, Inc. v. Dixie*, 6<sup>th</sup> Dist. Erie No. E-12-034, 2013-Ohio-4829, ¶ 4, citing *Irvine*, at 19; *Marietta Coal Co. v. Kirkbride*, 2014-Ohio-5677, 26 N.E.3d 852, ¶ 11 (7<sup>th</sup> Dist.).

The Hearing Officer, in this instance, found that Green-Hamilton quit without just cause. "The term 'quit' connotes a voluntary act by an employee not controlled by the employer." *Friedel*, quoting *Elliott*, ¶ 13, citing *Henize v. Giles*, 69 Ohio App.3d 104, 111, 590 N.E.2d 66 (4<sup>th</sup> Dist. 1990). "Just cause," furthermore, is defined as "that which, to an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act." *NcNeil Chevrolet, Inc. v. Unemp. Comp. Rev. Bd.*, 187 Ohio App.3d 584, 2010-Ohio-2376, 932 N.E.2d 988, ¶ 24 (6<sup>th</sup> Dist.), citing *Irvine*, at 17, quoting *Peyton v. Sun T.V.*, 44 Ohio App.2d 10, 12, 535 N.E.2d 751 (10<sup>th</sup> Dist. 1975).

The testimony and evidence presented at Hearing support the Hearing Officer's determination that Green-Hamilton quit without just cause. The Hearing Officer noted that

quitting was a drastic measure, and Green-Hamilton's decision was abrupt, with no attempt to take any steps to keep her job. Significantly, the Hearing Officer noted that Green-Hamilton requested FMLA paperwork, but turned in her ID badge and key card within minutes of that request, with no credible evidence demonstrating Deca Health prompted or forced Green-Hamilton's decision to quit, and no opportunity for Deca Health to provide the requested documentation. An ordinarily intelligent person with need for accommodations would not quit without "giving the employer an opportunity to make suitable arrangements." *Digiannantoni v. Wedgewater Animal Hosp.*, 109 Ohio App.3d 300, 307, 671 N.E.2d 1378 (10<sup>th</sup> Dist. 1996) (citation omitted.)

The law is clear that Green-Hamilton is ineligible for unemployment benefits if she quit her employment without just cause. *Friedel*, ¶ 17, citing R.C. 4141.29(H); *Elliott*, ¶ 13; *Baker v. Dir. of Ohio Dept. of Job and Family Servs.*, 6<sup>th</sup> Dist. Lucas No. L-06-1198, ¶ 18. The record reflects competent, credible evidence that Green-Hamilton did just that – quit without just cause. The decision of the Review Commission, disallowing benefits, must therefore be affirmed as supported by the record.

JUDGMENT ENTRY

It is therefore ORDERED that the Decision of the Unemployment Compensation Review Commission's is hereby AFFIRMED.

Date

11/30/17

  
JUDGE GENE A. ZMUDA