

[Cite as *Konieczka v. U.C.R.C.*, 2011-Ohio-4094.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 95697

GARY KONIECZKA

PLAINTIFF-APPELLANT

vs.

U.C.R.C., ET AL.

DEFENDANTS-APPELLEES

**JUDGMENT:
AFFIRMED**

Administrative Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CV-717717

BEFORE: Stewart, P.J., Celebrezze, J., and Sweeney, J.

RELEASED AND JOURNALIZED: August 18, 2011

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MELODY J. STEWART, P.J.:

{¶ 1} This cause came to be heard upon the accelerated calendar pursuant to App.R. 11.1 and Loc.R. 11.1,¹ the record from the Cuyahoga County Court of Common Pleas, and the briefs and oral arguments of counsel.

{¶ 2} Claimant-appellant, Gary Konieczka, filed a claim for unemployment compensation benefits after he quit his job with Maca Transport, Inc., but the claim was disallowed because he failed to provide specific facts regarding his reasons for quitting. Konieczka appealed from that determination, but a hearing officer found the appeal was untimely filed.

The review commission upheld that finding. Konieczka appealed to the court of common pleas, but the court found that the review commission's decision was not unlawful, unreasonable, or unsupported by the manifest weight of the evidence.

{¶ 3} Konieczka appears pro se, and although his brief does not set forth an assignment of error, it appears that he is claiming that the director should not have issued a decision without first considering Konieczka's reasons for quitting.

¹App.R. 11.1(E) states: "Determination and judgment on appeal. It shall be sufficient compliance with App. R. 12(A) for the statement of the reason for the court's decision as to each error to be in brief and conclusionary form." See, also, Form 3, Appendix of Forms to the Rules of Appellate Procedure.

{¶ 4} The review commission did not consider whether Konieczka quit his job with just cause because it found that he failed to file a timely appeal from the director's ruling. R.C. 4141.281(A) states that an appeal from a determination of benefit rights or a claim for benefits determination must be made within 21 calendar days of the determination. In the absence of a timely appeal made in accordance with R.C. 4141.281(A), the review commission is without jurisdiction to conduct further review of the director's determination. *Clemons v. Ohio State Dept. of Job & Family Serv.*, 10th Dist. No. 03AP-976, 2004-Ohio-6251, at ¶3; *Fisher v. Yellow Freight Sys. Inc.*, 5th Dist. No. 2003CA00391, 2004-Ohio-5193, at ¶11.

{¶ 5} The director's decision disallowing benefits was dated April 17, 2009. It stated that Konieczka had 21 days' appeal rights and that: **“TO BE TIMELY, YOUR APPEAL MUST BE RECEIVED/POSTMARKED NO LATER THAN 05/08/2009.”** (Emphasis sic.) Konieczka did not file his notice of appeal until June 5, 2009.

{¶ 6} During a hearing held before the review commission, Konieczka admitted that he had requested to be notified of the director's decision online and that he did, in fact, receive notice of the April 17, 2009 decision by email before the appeal deadline. He did not open the email, however, because he “didn't know how to navigate on the computer.”

{¶ 7} A reviewing court may reverse the review commission's determination only if it is unlawful, unreasonable, or against the manifest weight of the evidence. *Geretz v. Ohio Dept. of Job & Family Servs.*, 114 Ohio St.3d 89, 2007-Ohio-2941, 868 N.E.2d 669, ¶10, citing *Tzangas, Plakas & Mannos v. Ohio Bur. of Emp. Servs.*, 73 Ohio St.3d 694, 697, 1995-Ohio-206, 653 N.E.2d 1207. The court did not act unreasonably by affirming the review commission's finding that Konieczka did not timely appeal from the director's determination. The undisputed evidence shows that Konieczka received notice of the director's decision disallowing his application for benefits but failed to file an appeal from that decision in a timely manner.

Judgment affirmed.

It is ordered that appellees recover of appellant their costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the Cuyahoga County Court of Common Pleas to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

MELODY J. STEWART, PRESIDING JUDGE

FRANK D. CELEBREZZE, JR., J., and
JAMES J. SWEENEY, J., CONCUR