

IN THE OHIO COURT OF APPEALS
FIFTH APPELLATE DISTRICT
STARK COUNTY, OHIO

THE M. CONLEY COMPANY,

Plaintiff - Appellant

-vs-

STATE OF OHIO UNEMPLOYMENT
COMPENSATION REVIEW
COMMISSION, et al.,

Defendants - Appellees

Case No. 2026CA00089

Opinion And Judgment Entry

Appeal from the Stark County Court of
Common Pleas, Case No. 2025CV01794

Judgment: Affirmed

Date of Judgment Entry: October 23, 2026

BEFORE: Craig R. Baldwin; William B. Hoffman; Robert G. Montgomery, Judges

APPEARANCES: CRAIG T. CONLEY, for Plaintiff-Appellant; D. ANDREW WILSON, Ohio Attorney General, BRIAN P. MURPHY, Senior Assistant Attorney General, for Defendant-Appellee ODJFS Director; JAMES BRECKENRIDGE, Pro Se Appellee, No Appearance.

Baldwin, J.

{¶1} The appellant, The M. Conley Company, appeals the March 26, 2026, judgment of the Stark County Court of Common Pleas affirming the decision of the Ohio Unemployment Compensation Review Commission (“Commission”), which determined James M. Breckenridge was discharged without just cause in connection with work.

STATEMENT OF FACTS AND THE CASE

{¶2} Breckenridge was employed by the appellant as a truck driver from December 2022 until December 2024. On the morning of December 16, 2024, Breckenridge reported to work at approximately 6:30 a.m., but the truck assigned to him would not start.

{¶3} E.E., an employee at the appellant's warehouse, testified at the May 19, 2025, Commission hearing that Breckenridge came into the facility after the truck would not start and asked where the supervisors, including the acting supervisor, were located. According to E.E., he told Breckenridge that one supervisor was on vacation and the acting supervisor was on the dock. E.E. testified Breckenridge then stated his truck would not start and he was going home. E.E. further testified the truck's battery had died because of the cold, and someone was available to service or charge the battery.

{¶4} Breckenridge testified he attempted to locate a supervisor but did not find one. He testified he did not know why the truck would not start, had not previously encountered the problem, was not a mechanic, and did not know maintenance personnel were available to service the truck. Breckenridge wrote the truck number on a maintenance board along with a notation concerning the problem and told E.E. he was going home.

{¶5} The testimony concerning the acting supervisor was not entirely consistent. E.E. testified he told Breckenridge that the acting supervisor was on the dock at door six. Breckenridge, however, testified he looked for the acting supervisor but did not find him there.

{¶6} Breckenridge testified he went home to await further instructions. The appellant attempted to contact him by telephone and text after his departure. Breckenridge did not respond. At approximately 11:00 or 11:30 a.m. that morning, the appellant's vice president of operations sent Breckenridge a text message advising him not to return to work because his employment had been terminated. Breckenridge testified he did not read the message until the following day.

{¶7} On January 24, 2025, Breckenridge filed an application for unemployment compensation benefits. On his application, he characterized the separation as a layoff for lack

of work. The Ohio Department of Job and Family Services (“ODJFS”) allowed the application and determined Breckenridge was eligible for benefits, subject to the remaining statutory requirements.

{¶8} The appellant appealed. Following proceedings concerning the timeliness of the appeal, the matter proceeded to a hearing before a Commission hearing officer on May 19, 2025.

{¶9} At the hearing, Breckenridge was questioned about his characterization of the separation as a layoff and explained his understanding of why he was no longer needed.

{¶10} Following the hearing, the hearing officer determined Breckenridge had been discharged without just cause in connection with work. The hearing officer found Breckenridge was a truck driver rather than a mechanic, no written policy addressed what an employee should do under the circumstances, Breckenridge could not locate a supervisor, and he notified the appellant of the disabled vehicle through the maintenance board and informed a coworker before leaving. The hearing officer concluded the appellant had not demonstrated fault sufficient to disqualify Breckenridge from benefits.

{¶11} The appellant requested review. On July 16, 2025, the Commission affirmed the hearing officer’s decision.

{¶12} The appellant appealed to the Stark County Court of Common Pleas. The common pleas court determined competent, credible evidence supported the Commission’s finding that Breckenridge’s conduct did not demonstrate an unreasonable disregard for the appellant’s interests. The court therefore concluded the Commission’s determination was not unlawful, unreasonable, or against the manifest weight of the evidence and affirmed the Commission.

{¶13} The appellant filed a timely notice of appeal and raises one assignment of error.

{¶14} “I. THE COURT BELOW ERRED IN AFFIRMING THE DECISION OF THE UNEMPLOYMENT COMPENSATION REVIEW COMMISSION (‘COMMISSION’) THAT EMPLOYEE (‘CLAIMANT’) HAD BEEN DISCHARGED WITHOUT JUST CAUSE.”

I.

{¶15} In its sole assignment of error, the appellant argues that the common pleas court erred in affirming the Commission’s determination that Breckenridge was discharged without just cause. We disagree.

STANDARD OF REVIEW

{¶16} Judicial review of a decision of the Commission is governed by R.C. 4141.282(H). A reviewing court may reverse the Commission’s just-cause determination only if it is unlawful, unreasonable, or against the manifest weight of the evidence. *Tzangas, Plakas & Mannos v. Admr., Ohio Bur. of Emp. Servs.*, 73 Ohio St.3d 694 (1995), paragraph one of the syllabus. That duty is shared by all reviewing courts, and our review is directed to the Commission’s decision rather than that of the common pleas court. *Id.* at 696-697; *Brunaugh v. Damschroder*, 2024-Ohio-1905, ¶ 13-14 (5th Dist.).

On review for manifest weight, the standard in a civil case is identical to the standard in a criminal case: A reviewing court is to examine the entire record, weigh the evidence and all reasonable inferences, consider the credibility of witnesses and determine “whether in resolving conflicts in the evidence, the jury [or finder of fact] clearly lost its way and created such a

manifest miscarriage of justice that the conviction [decision] must be reversed and a new trial ordered.” *State v. Martin*, 20 Ohio App.3d 172, 175, 20 Ohio B. 215, 485 N.E.2d 717 (1st Dist.1983). *See also*, *State v. Thompkins*, 78 Ohio St.3d 380, 1997-Ohio-52, 678 N.E.2d 541; *Eastley v. Volkman*, 132 Ohio St.3d 328, 2012-Ohio-2179, 972 N.E.2d 517.

Hutson v. Meyers, 2022-Ohio-1622, ¶ 22 (5th Dist.). In weighing the evidence, we are required to be mindful of the presumption in favor of the finder of fact. *Eastley* at ¶ 21. “If the evidence is susceptible of more than one construction, the reviewing court is bound to give it that interpretation which is consistent with the verdict and judgment, most favorable to sustaining the verdict and judgment.” *Seasons Coal Co., Inc. v. Cleveland*, 10 Ohio St.3d 77, 80, fn. 3 (1984). “In a civil case, in which the burden of persuasion is only by a preponderance of the evidence, rather than beyond a reasonable doubt, evidence must still exist on each element (sufficiency) and the evidence on each element must satisfy the burden of persuasion (weight).” *Eastley* at ¶ 19.

{¶17} That standard is modified in unemployment-compensation appeals, however, because a reviewing court may not make factual findings or determine the credibility of witnesses. *Brunaugh*, 2024-Ohio-1905, at ¶ 14 (5th Dist.), quoting *Evans v. Dir., Ohio Dept. of Job & Family Servs.*, 2023-Ohio-4299, ¶ 44-46 (5th Dist.); *Tzangas*, 73 Ohio St.3d at 696. Where some competent, credible evidence supports the Commission’s determination, a reviewing court may not reverse merely because reasonable minds might reach different conclusions. *Irvine v. Unemp. Comp. Bd. of Rev.*, 19 Ohio St.3d 15, 18 (1985).

ANALYSIS

{¶18} R.C. 4141.29(D)(2)(a) provides that an individual may not be paid benefits for the duration of the individual's unemployment if the director finds the individual "has been discharged for just cause in connection with the individual's work."

{¶19} "Just cause" is generally defined as that which, to an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act. *Irvine* at 17. The determination of just cause depends upon the particular facts and circumstances of each case. *Id.*

{¶20} In the unemployment-compensation context, fault on the part of the employee is an essential component of just cause. *Tzangas*, 73 Ohio St.3d at 697-698. The inquiry therefore includes whether the employee's conduct demonstrated an unreasonable disregard for the employer's best interests. *Brunaugh*, 2024-Ohio-1905, at ¶ 15 (5th Dist.).

{¶21} The appellant contends Breckenridge was discharged for just cause because he left the workplace without authorization even though an acting supervisor was present, failed to wait for instructions, and thereafter failed to respond to the appellant's attempts to contact him. The appellant maintains the Commission's conclusion to the contrary was unreasonable and against the manifest weight of the evidence.

{¶22} The appellant identifies evidence from which the Commission could have reached a different conclusion. But the question is not whether we, sitting as the initial factfinder, would have found Breckenridge acted reasonably, or whether the appellant had a legitimate business reason for terminating his employment. The question is whether the Commission's determination that Breckenridge was not discharged for just cause is unlawful, unreasonable, or against the manifest weight of the evidence.

{¶23} The appellant first discusses E.E.'s testimony that Breckenridge was informed the acting supervisor was on the dock. The appellant argues this evidence contradicts the hearing officer's finding that a supervisor could not be found.

{¶24} We recognize the testimony regarding the acting supervisor's reported location supports the appellant's position and could support an inference that Breckenridge should have made additional efforts to locate the acting supervisor before leaving. The record, however, also contains Breckenridge's testimony that he attempted to locate a supervisor and did not find the acting supervisor on the dock.

{¶25} The appellant contends there were no credibility questions before the Commission, only undisputed facts. But even undisputed facts can support competing inferences, and drawing those inferences was for the Commission. Whether Breckenridge's search for the acting supervisor was reasonable under the circumstances is precisely that kind of question. A reviewing court may not substitute its judgment for the Commission's on such matters. *Tzangas*, 73 Ohio St.3d at 696-697.

{¶26} The record further contains evidence that Breckenridge had not previously encountered the problem with his truck, did not know the cause of the problem, was not a mechanic, did not know maintenance personnel were available, and was not subject to any written policy addressing what to do in that situation. Before leaving, Breckenridge placed the truck number and the problem on the maintenance board and informed E.E. of the situation.

{¶27} This is competent, credible evidence from which the Commission could find Breckenridge did not ignore the disabled truck or act with an unreasonable disregard for the appellant's interests. Rather, the Commission could reasonably determine Breckenridge was confronted with circumstances he had not previously experienced, attempted to notify the

appellant of the problem, and made an imperfect decision as to where to await further direction.

{¶28} The appellant also emphasizes Breckenridge's failure to respond to communications after he left the workplace, arguing that conduct is inconsistent with Breckenridge's testimony that he went home to await instructions.

{¶29} We do not discount that evidence. But the record also shows the appellant terminated Breckenridge's employment by text message the same morning, within hours of his departure, and Breckenridge testified he went home to await instructions and did not read the message until the next day. Whether his failure to respond during those few hours reflected a disregard of the appellant's interests, or simply that he had not yet seen the messages, was a question of weight for the Commission. The presence of evidence permitting an inference of fault does not require reversal where the record also contains competent, credible evidence supporting the Commission's contrary determination. *See Irvine*, 19 Ohio St.3d at 18.

{¶30} Much of the appellant's argument asks us to weigh the evidence differently than the Commission did. The appellant emphasizes that dead batteries are common in Ohio winters, that someone was available to charge the battery, that a supervisor was reportedly present, that Breckenridge could have remained at the facility, and that Breckenridge did not answer subsequent communications.

{¶31} Those facts are relevant. They do not, however, establish that the Commission was required to find just cause as a matter of law. The Commission was charged with evaluating those circumstances together with Breckenridge's lack of knowledge that maintenance personnel were available, his testimony concerning his efforts to locate a

supervisor, his notation of the disabled truck on the maintenance board, and his lack of prior experience with the situation.

{¶32} The appellant also argues Breckenridge misrepresented the reason for his separation by reporting a layoff for lack of work, and that his application should have been denied on that basis. But the only determination before the Commission, and therefore before us, is whether Breckenridge was discharged for just cause in connection with work. Whether a claimant made a fraudulent misrepresentation to obtain benefits is a separate determination committed to the director under R.C. 4141.35(A). *See Carden v. Ohio Dept. of Job & Family Servs.*, 2022-Ohio-2786, ¶ 4, 9 (5th Dist.) (reviewing a fraudulent-misrepresentation determination made under R.C. 4141.35(A)). No such determination was made here, and whether a fraudulent misrepresentation occurred is a question of fact. *Id.* at ¶ 10. The appellant is therefore asking us to make that finding in the first instance, which a reviewing court may not do. *Tzangas*, 73 Ohio St.3d at 696. The argument provides no basis to disturb the Commission's just-cause determination.

{¶33} On this record, reasonable minds could disagree concerning whether Breckenridge exercised appropriate judgment when he left the workplace. Indeed, the evidence identified by the appellant could have supported a different administrative determination. But a close evidentiary question is not, without more, a basis for reversal. *See Irvine*, 19 Ohio St.3d at 18.

{¶34} The Commission had before it competent, credible evidence supporting its determination that Breckenridge's actions did not demonstrate the degree of fault necessary to establish discharge for just cause in connection with work. The Commission did not clearly

lose its way or create a manifest miscarriage of justice, and its decision was not unlawful, unreasonable, or against the manifest weight of the evidence.

{¶35} The appellant's sole assignment of error is overruled.

CONCLUSION

{¶36} Based upon the foregoing, the judgment of the Stark County Court of Common Pleas is affirmed.

{¶37} Costs to the appellant.

By: Baldwin, J.

Hoffman, P.J. and

Montgomery, J. concur.