[Cite as *Williams v. Ohio Unemp. Comp. Review Comm.*, 2011-Ohio-2458.]

IN THE COURT OF APPEALS

ELEVENTH APPELLATE DISTRICT

TRUMBULL COUNTY, OHIO

LARRY WILLIAMS,	:	**O P I N I O N**
Appellant,	:	**CASE NO. 2010-T-0094**
- vs -	:	
STATE OF OHIO UNEMPLOYMENT COMPENSATION REVIEW COMMISSION, et al.,	:	
Appellees.	:	

Administrative Appeal from the Court of Common Pleas, Case No. 2009 CV 2136.

Judgment: Affirmed.

Martin S. Hume, Martin S. Hume Co., L.P.A., 6 Federal Plaza Central, #905, Youngstown, OH 44503 (For Appellee).

Mike DeWine, Attorney General, State Office Tower, 30 East Broad Street, Columbus, OH 43215-3428 and *Susan M. Sheffield*, Assistant Attorney General, 20 West Federal Street, Third Floor, Youngstown, OH 44503 (For Appellees State of Ohio Unemployment Compensation Review Commission and Ohio Department of Job and Family Services Director).

Charles L. Richards and *Jason M. Toth*, Law Office of Charles L. Richards, Hunter's Square, 8600 East Market Street, #1, Warren, OH 44484-2375 (For Appellee Mahoning Valley Sanitary District).

MARY JANE TRAPP, J.

{¶1} Larry Williams appeals from a judgment of the Trumbull County Court of Common Pleas which affirmed the decision of the Ohio Unemployment Compensation Review Commission ("review commission") denying unemployment compensation

benefits to him. His employer, Mahoning Valley Sanitary District ("MVSD"), discharged him from his job as an assistant operator trainee when he continued to make errors, showing an inability to successfully perform the duties of assistant operator for which he was trained, even after an extended training period. Because the evidence in the record supports the review commission's finding that Mr. Williams was discharged for just cause, we affirm the trial court.

{¶2} **Substantive Facts and Procedural History**

{¶3} On October 16, 2006, Mr. Williams was hired by MVSD as an assistant operator trainee in the purification department. His duties consisted primarily of measuring and adding proper amounts of various chemicals to the water supply to maintain its safety. However, he frequently made mathematical errors in measuring the chemicals required for a proper balance based upon a formula. Keith Rees, the Chief of Operations of MVSD, estimated that during the initial period, he made mistakes on between a dozen to two dozen occasions, and, during the last six months of his employment, on least a dozen occasions. A more serious error occurred on January 31, 2008, when he failed to keep the proper amount of chlorine in a feeder system, resulting in a decrease of chlorine in the water supply. Fortunately the error was detected by another employee, thus averting a potential risk to the safety of the water supply.

{¶4} As an assistant operator trainee, Mr. Williams was expected to progress from the trainee status into the assistant operator position within a year, but he never did, because of the deficiencies of his job performance. Of the nine other employees who were hired in the purification department around the same time, he was the only

one unable to successfully perform the job independently and to become an assistant operator.

{¶5} In his first three months at the job, Mr. Williams received three formal job evaluations, the last of which occurred February 2007. In the first review, two months after his hiring, Mr. Williams received a "fair" rating -- below "satisfactory" -- in five of six performance criteria. The written comments on the review stated: "Larry needs to pay 110% attention to his job when he is training. He needs to watch his math when doing paper work. Check the lime feeds when needed. Pay closer attention when reading the scales. Larry needs to follow the instructions that the Operators give him. He also needs to remove all outside distraction when training. I feel Larry is behind at this point in his training and needs to step up the pace."

{¶6} In the second review dated January 23, 2007, he received a "fair" rating in four criteria and "satisfactory" in two. The written comments stated: "Larry had 14 days more training (24 total days) since his last evaluation. Larry has made a small amount of progress but he should be able to operate alone by now but he is not ready. Larry is still having problems with the paper work. Larry also needs to be reminded often to do and check things. *** Larry did not meet his last goal of being ready to Operate by the 2nd week of January or to produce more notes that would be helpful to his own training. Larry's new goals are to have a significant amount of notes and to be able to Operate by himself before his 120 day review. Larry has only 21 days (from 1/23/2007) to accomplish this."

{¶7} In his last review, dated February 13, 2007, he received "fair" rating in all six criteria. The written comments stated: "Larry has had 11 days more training not counting today for a total of 35 days since his last evaluation. Larry has made a small

amount of progress but he should be able to operate alone by now but he is still not ready. Larry is still having problems with the paper work. Larry also still needs to be reminded often to do and check things." The comments section added the following warning: "Under Section 6115.72 of the Ohio Revised it states: 'Any director, appraiser, member of the advisory council, or other officer or employee of any sanitary district may be removed for or without cause at any time by the authority appointing him ***.'"

{¶8} No more evaluations were given because, according to Mr. Rees, Chief of Operations, the evaluation is only given during the trainee period and it is unusual to for an employee to remain in the trainee status for an extended period of time. MVSD has a 120-day probation period for the new hires. It typically takes an individual from five days to three weeks to progress from a trainee status to an assistant operator. MVSD never had an individual who remained a trainee after sixteen months of training.

{¶9} Because of Williams' apparent inability to perform his job duties, MVSD made special efforts to help him: having the more experienced operators teach him, a special manual, a course in the "water school," and a tutor for the course. Despite the additional help, Mr. Williams made errors in measuring the chemicals on a weekly basis up to the time of his discharge.

{¶10} Mr. Williams was eventually discharged on February 27, 2008. The Ohio Department of Job and Family Services ("ODJFS") allowed his claim for unemployment compensation and MVSD appealed to the review commission.

{¶11} On July 11, 2008, a hearing officer at the review commission held a telephone hearing. Mr. Williams telephoned in but was not at a phone where he could receive incoming calls from the hearing officer. He informed the officer he would drive home for the hearing. The officer then attempted to reach him at home, but was only

able to leave a message for him to telephone in once he arrived home. When he finally telephoned in, the hearing had already concluded.

{¶12} On July 22, 2008, the hearing officer issued a decision, finding Mr. Williams had been discharged for poor job performance. The decision noted the errors he regularly made as an assistant operator trainee and also that, although it would typically take a trainee four weeks to learn the job, Mr. Williams was unable to perform his job duties even after 16 months, despite additional training provided by his supervisors. Mr. Williams appealed to the review commission, pursuant to R.C. 4141.281(C)(3). The review commission disallowed his request for further review.

{¶13} Mr. Williams filed an administrative appeal with the Trumbull County Court of Common Pleas. The trial court remanded the case to the review commission, stating in its judgment entry: "Upon oral motion of Appellant, case is remanded to the Unemployment Compensation Review for full hearing on the merits."

{¶14} Upon remand, the review commission appointed a hearing officer to conduct a hearing, pursuant to R.C. 4141.281(C)(2). On June 1, 2009, Mr. Williams, represented by counsel, participated at a telephone hearing. Mr. Rees testified on behalf of MVSD regarding Mr. Williams' inability to perform the job despite extra help from MVSD.

{¶15} Mr. Williams admitted to making mistakes on measuring the chemicals but disagreed with Mr. Rees' estimate of the number of the mistakes he made. He believed he only made three or four mistakes in the last six months of his employment. He also disagreed with his performance reviews, but admitted receiving verbal reprimands regularly from Mr. Rees that he was not doing his job correctly, about two or three times a week.

{¶16} On July 14, 2009, the review commission issued a decision, signed by a three-member panel. The commission noted Mr. Williams' below-satisfactory rating in all three reviews and the mistakes he regularly made in calculating and adding correct amounts of chemicals to the water supply, despite the extra training from his employer. It also noted the serious error he made on January 31, 2008, when he failed to add sufficient amount of chlorine to the water supply, which could have posed a serious health risk to the residents of the district. The commission also stressed his lack of progress and inability to move out of the trainee classification into the assistant operator position. The commission concluded Mr. Williams was discharged for just cause and therefore affirmed the previous decision issued on July 22, 2011.

{¶17} The trial court affirmed the review commission's decision. Mr. Williams now appeals, raising the following assignments of error:

{¶18} "[1.] The Trumbull County Court of Common Pleas erred by failing to find that where an employer bypasses its own progressive disciplinary system and terminates an employee, that employee's discharge is without just cause for unemployment compensating purposes."

{¶19} "[2.] The Trumbull County Court of Common Pleas erred in failing to find that the appellant was discharged without just cause because he was capable of performing the duties of an assistant operator-trainee, which was the particular position he was hired to perform.

{¶20} "[3.] The Trumbull County Court of Common Pleas erred in failing to address all of the arguments of the appellant.

{¶21} "[4.] The Trumbull County Court of Common Pleas erred in failing to find that the decision of the unemployment compensation board of review was not in

accordance with law because Williams was denied his right to a full hearing on the merits as ordered by the court, the hearing officer who heard the case upon remand did not issue a decision, and Williams was denied his right to a de novo hearing.

{¶22} "[5.] The Trumbull County Court of Common Pleas erred in failing to find that the procedures used by the unemployment compensation review commission had the effect of denying Williams his constitutional right to due process."

{¶23} **Standard of Review**

{¶24} R.C. 4141.282 governs the procedure of appeals from the decisions by the Unemployment Compensation Review Commission. R.C. 4141.282(H) states:

{¶25} "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 commission."

{¶26} In *Reddick v. Sheet Metal Prods. Co.*, 11th Dist. No. 2009-L-092, 2010-Ohio-1160, this court stated the following regarding the standard of review for unemployment compensation appeals:

{¶27} "R.C. Chapter 4141 does not distinguish between the scope of review of a common pleas court and that of an appellate court with respect to Review Commission decisions. Additionally, the Supreme Court of Ohio has confirmed that 'there is no distinction between the scope of review of common pleas and appellate courts regarding "just cause" determinations under the unemployment compensation law.' *Durgan v. Ohio Bur. of Emp. Servs*. (1996), 110 Ohio App.3d 545, 551, citing *Tzangas, Plakas & Mannos v. Ohio Bur. of Emp. Servs*. (1995), 73 Ohio St.3d 694, 696-697. This

Court is required to focus on the decision of the Review Commission, rather than that of the common pleas court, in such cases. *Barilla v. Ohio Dept. of Job & Family Servs.*, 9th Dist. No. 02CA008012, 2002-Ohio-5425, at ¶6, citing *Tenny v. Oberlin College*, 9th Dist. No. 00CA007661, 2000 Ohio App. LEXIS 6169, at *5.

{¶28} "'An appellate court may reverse the Unemployment Compensation Board of Review's 'just cause' determination only if it is unlawful, unreasonable or against the manifest weight of the evidence.' *Groves v. Ohio Dept. of Job and Family Servs.*, 11th Dist. No. 2008-A-0066, 2009-Ohio-2085, ¶13, quoting *Tzangas,* 73 Ohio St. 3d 694, at paragraph one of the syllabus; R.C. 4141.282(H)." Id. at ¶15-16.

{¶29} Moreover, "the investigation into just cause is a factual inquiry." *Reddick* at ¶19, citing *Irvine v. Unemployment Comp. Bd. of Rev.* (1985), 19 Ohio St.3d 15, 17. As a reviewing court, we are not to make factual findings or determine the credibility of the witnesses; rather, we are only to determine whether the decision of the commission is supported by the evidence in the record. Id. citing *Irvine* at 18.

{¶30} **Whether Mr. Williams was Discharged for Just Cause**

{¶31} We address the second assignment of error first, that is, whether Mr. Williams was discharged for just cause. Pursuant to R.C. 4141.29(D)(2)(a), an individual is not eligible for unemployment compensation benefits if the individual has been "discharged for just cause in connection with the individual's work."

{¶32} The burden of proof is upon the employee to establish that she is entitled to unemployment compensation benefits because she was discharged without just cause. *Durgan* at 550, citing *Irvine*.

{¶33} "Traditionally, just cause, in the statutory sense, is that which, to an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act." *Irvine* at 17, quoting *Peyton v. Sun T.V.* (1975), 44 Ohio App.2d 10, 12.

{¶34} In *Tzangas*, supra, the Supreme Court of Ohio provided a four-pronged test for just cause termination:

{¶35} "Unsuitability for a position constitutes fault sufficient to support a just cause termination. An employer may properly find an employee unsuitable for the required work, and thus to be at fault, when: (1) the employee does not perform the required work, (2) the employer made known its expectations of the employee at the time of hiring, (3) the expectations were reasonable, and (4) the requirements of the job did not change since the date of the original hiring for that particular position." Id. at 698-699.

{¶36} Mr. Williams maintains the fourth factor was not satisfied in his case. According to his argument, he was terminated because he could not perform the duties of an assistant operator, yet he was hired to be an assistant operator *trainee,* not an assistant operator*.* Therefore, his argument goes, the requirements of the job *did* change "since the date of the original hiring for that particular position."

{¶37} Mr. Williams misinterprets the fourth *Tzangas* factor, because, according to his peculiar interpretation, no *trainees* can ever be terminated for their inability to successfully learn the job for which they are training. Rather, the "requirements of the job" as a trainee for a position is to eventually learn the duties required of the position. That is a requirement for Mr. Williams' job since the date of his original hiring as an assistant operator trainee. The record contains ample evidence that Mr. Williams failed to learn to perform the job of an assistant operator despite additional training programs

and despite an expansion of the training period. Pursuant to the just cause test set forth in *Tzangas*, the review commission's finding that MDVS terminated Mr. Williams for just cause is supported by the manifest weight of the evidence in the record.

{¶38} **Progressive Discipline**

{¶39} Mr. Williams also contends that he was entitled to the progressive disciplinary system utilized by MVSD for disciplining its employees. According to the policy, the progressive discipline consists of a verbal warning, written warning, suspension without pay, and discharge. He claims MVSD's failure to follow the progressive disciplinary policy before discharging him constituted a discharge without cause. He cites *Mullen v. Adm., Ohio Bur. of Emp. Serv.* (Jan. 16, 1986), Cuyahoga App. No. 49891, 1986 Ohio App. LEXIS 5278 and similar cases for the proposition that an employee's discharge is without cause if an employer does not follow its own disciplinary process before terminating the employee.

{¶40} In *Mullen*, the claimant was discharged because her disruptive attitude deleteriously affected her job performance and her relationship with her fellow employees. Id. at *3. Under her employer's disciplinary system, three written warnings were required before an employee could be dismissed. In her case, the employer only issued one written warning prior to her discharge. Because the employer failed to comply with its own disciplinary procedure, the Eighth District concluded the employee was terminated without just cause and therefore entitled to unemployment compensation.

{¶41} In reaching the conclusion, the Eighth District noted that "[p]rogressive disciplinary systems create expectations on which employees rely." Id. at *13. It stressed, furthermore, *"[f]airness requires an employee not be subject to more severe*

discipline than that provided for by company policy." (Emphasis added.) Id., *citing Bays v. Bd. of Rev.*, et al. (1982), 9 Unempl. Ins. Rep., Para. 9412 and *Bd. of Rev. v. Schmid* (1975), 342 A.2d 553.

{¶42} Here, the two pages of excerpts from MVSD's employment handbook submitted by Mr. Williams state that the progressive discipline consists of "a verbal warning, written warning, suspension without pay (depending on circumstances this may be a several step process), and discharge." The handbook classifies "offenses" into three groups, and the specific disciplinary procedure varies for each group, depending on the severity of the offenses. Group one, the least severe offenses, includes offenses such as failure to call in an absence and chronic tardiness, among others; group two includes offenses such as disorderly conduct and use of abusive language toward supervisors; group three includes absence from duty without leave and gambling during work hours.

{¶43} Here, Mr. Williams' supervisor explained at the hearing that it is not MVSD's practice to discipline trainees who are still in the process of learning the job. Rather than disciplining Mr. Williams under the progressive disciplinary policy for his performance deficiencies, MVSD provided an additional training course in water treatment and purification, developed a special manual for him, and expanded the training period. Despite the additional help, Mr. Williams was still unable to correctly measure chemicals and add them to the water supply at specified time intervals. Instead, he continued to make errors.

{¶44} *Mullen* and another case cited by Mr. Williams, *Pickett v. Unemployment Compensation Bd. of Review* (1989), 55 Ohio App.3d 68, held that an employer's failure to follow its own disciplinary procedure prior to terminating an employee constituted a

discharge without cause. Both cases, however, relate to violations of a company's *work rules*. In *Mullen*, the employee was discharged for her disruptive behavior; in *Pickett*, for overstaying the lunch period.

{¶45} Mr. Williams, however, was terminated not because of violations of *work rules*, but because of his inability to perform his job and essentially for his unsuitability for the position of assistant operator for which he was trained for. It is not an "offense" per se to which the progressive policy is intended to apply. Therefore, these cases would appear to be distinguishable.

{¶46} Furthermore, *even if* the policy applies, our research discloses case law permitting an employer to discharge an employee with just cause despite a failure to follow its progressive disciplinary policy. In *Rose v. Hercules Tire & Rubber Co*. (Feb. 1, 1990), 3rd Dist. No. 5-87-9, 1990 Ohio App. LEXIS 345, the claimant worked as a banbury mixer operator. He was issued a written reprimand for failing to follow the standard mixing formulas for rubber production and for shutting down the mixing equipment without authority. His supervisor orally instructed him to strictly comply with its mixing formulas and to follow the instructions regarding the shutting down of his equipment. After he continued to make mistakes, despite the instructions, the company terminated him without following its progressive disciplinary policy. The Third District held that the employee was terminated with just cause.

{¶47} The Third District noted that progressive discipline has been found by the courts to bind employers in their discharge of employees. However, the Third District pointed out the employee was given specific instructions at a meeting held to settle problems regarding his job performance, which instructed him to follow the company's formulas, to abide by the mixing cycle schedules, and not to shut down his equipment

without authority. The employee was also told his failure to comply with these instructions would result in his discharge. The court reasoned that the employee was apprised of the consequences of a failure to follow the specific instructions, as well as the job performance that was expected of him. The court therefore held "these specific instructions given to [the employee] superseded any general disciplinary policy of the employer and advised [the employee] of the terms of his employment thereafter." Id. at *7.

{¶48} Here, Mr. Williams knew he was hired as a trainee and was expected to move into the assistant operator position within a short time. He admitted to being regularly reprimanded by his supervisor for not doing his job correctly -- two or three times per week throughout his employment at MVSD.

{¶49} Moreover, in the three written evaluations of his performance, Mr. Williams was very specifically apprised of what was expected of him in the job. In the 30-day review, he was told he needed to watch his math while doing paperwork, to check the chemical feeds when necessary, to pay attention in reading the scales, and to follow the instructions given by the operator. He was told he was behind in his training and needed to step up the pace. In the 60-day interview, he was informed that, despite the training, he was still unable to operate alone, as was expected of him at that point. He was advised he was expected to operate alone before his 120 day review and he had 21 days to accomplish this goal. In the 120-day review, he was informed he still had problems with the paperwork and still was unable to operate alone. This review includes a warning that he "may be removed for or without cause at any time by the authority appointing him."

{¶50} Having been given repeated verbal reprimands and specific instructions in writing as to what was expected of him, Mr. Williams cannot claim he was unaware that his failure to follow through with the instructions and to operate independently would ultimately result in a discharge. Under the circumstances of this case, the written evaluations, whereby MVSD provided specific instructions advising Mr. Williams what was expected of him as a trainee, including the consequence of a failure to follow the instructions, superseded the general disciplinary policy, as in *Rose*.

{¶51} Our holding is consistent with the rationale behind *Mulllen*, where the Eighth District based its decision on the principle that fairness requires an employee not be subject to more severe discipline than that provided for by company policy. Here, after receiving repeated verbal and written warnings regarding his performance deficiencies, Mr. Williams was given special assistance and an expanded training period to learn his job, instead of being subjected to a suspension without pay, which was the next step in the progressive disciplinary policy. He received far more lenient treatment than that provided for in the progressive disciplinary policy. Therefore, our conclusion that MVSD discharged him with cause despite a lack of strict compliance with its progressive disciplinary procedure is consistent with the principle of fairness applied in *Mullen*.

{¶52} The first and second assignments of error are without merit.

{¶53} **Whether Full Hearing was Afforded**

{¶54} In the fourth and fifth assignments of error, Mr. Williams challenges the propriety of the hearing upon remand from the trial court. The record shows that a hearing officer held a hearing on July 11, 2008 and issued a decision on July 22, 2008, finding Mr. Williams discharged for just cause. However, because Mr. Williams did not

participate at that hearing due to communication failure, the trial court remanded the matter to the review commission for a new hearing to afford him full participation.

{¶55} Upon remand, the review commission appointed a hearing officer for a hearing, pursuant to R.C. 4141.281(C)(2). The new hearing took place on June 1, 2009. The hearing officer took testimony from both MVSD's Chief of Operations and Mr. Williams, who was represented by counsel.

{¶56} After the hearing, on July 14, 2009, three members of the review commission issued a decision pursuant to R.C. 4141.281(C)(1), which set forth its findings of fact and reasoning for its decision, based on the June 1, 2009 hearing. The review commission concluded Mr. Williams was discharged for cause, and affirmed the previous hearing officer's decision issued on July 22, 2008.

{¶57} Mr. Williams claims the review commission failed to provide him a full hearing because (1) the review commission "affirmed" the July 22, 2008 decision, which was based on a hearing without his participation, and because (2) the hearing officer who heard the evidence upon remand never rendered a decision on this matter.

{¶58} First, our review of the record shows the review commission's July 14, 2009 decision was based on the June 1, 2009 hearing, at which Mr. Williams, represented by counsel, fully participated. He gave testimony on his own behalf and his counsel cross-examined MVSD's witness, Mr. Rees. The review commission's decision set forth findings of fact based on the testimony and evidence presented at this hearing, and gave reasoning for its just cause determination.

{¶59} Second, Mr. Williams complains the hearing officer who conducted the June 1, 2009 hearing did not render a decision; instead, the decision was issued by a three-member panel of the review commission.

{¶60} "R.C. 4141.281 sets forth the procedure for appealing determinations of benefit rights or claims for benefit determinations. It establishes two levels of hearing before the commission: the hearing officer level and the review level." *Vacuform Indus. v. Unemployment Comp. Review Comm'n*, 10th Dist. No. 08AP-100, 2008-Ohio-4895, ¶11, citing R.C. 4141.281(C)(2).

{¶61} R.C. 4141.281 (C)(2) governs appeals of unemployment compensation matters. It states:

{¶62} "Hearings before the commission are held at the hearing officer level and the review level. Unless otherwise provided in this chapter, initial hearings involving claims for compensation and other unemployment compensation issues are conducted at the hearing officer level by hearing officers appointed by the commission. Hearings at the review level are conducted by hearing officers appointed by the commission, by members of the commission acting either individually or collectively, and by members of the commission and hearing officers acting jointly. In all hearings conducted at the review level, the commission shall designate the hearing officer or officers who are to conduct the hearing. When the term "hearing officer" is used in reference to hearings conducted at the review level, the term includes members of the commission. *All decisions issued at the review level are issued by the commission*." (Emphasis added.)

{¶63} Here, a review level hearing took place after the trial court remanded the matter to the review commission. The review commission appointed hearing officer Dana C. McCue to conduct the hearing and subsequently issued a decision, signed by a three-member panel, in accordance with R.C. 4141(C)(2). Mr. Williams' claim that the officer who conducted the hearing should have issued the decision is meritless.

{¶64} Mr. Williams' complaint that the review commission merely "affirmed" the previous July 22, 2008 decision is equally meritless. R.C. 4141.281(C)(6), which governs the review procedure, states specifically that "[w]hen a further hearing is provided or the decision is rewritten, the commission may affirm, modify, or reverse the previous decision." Here, the review commission provided a new hearing, rewrote its decision. Finding Mr. Williams was discharged for just cause, it affirmed the previous decision by the hearing officer, as permitted by the statute.

{¶65} The fourth and fifth assignments are overruled.

{¶66} **Failures to Address All Arguments**

{¶67} Finally, Mr. Williams complains the trial court failed to address all the arguments he raised, in particular, his claims regarding the impropriety of the hearing and the decision, which we have just addressed. For this contention Mr. Williams cites App.R. 12(A)(1)(c), which states the court of appeals shall "decide each assignment of error and give reasons in writing for its decision." Mr. Williams overlooks App.R. 1(A), which states: "These rules govern procedure in appeals to courts of appeals from the trial courts of record in Ohio." See *Kremer v. State Medical Bd.*, 10th Dist. No. 95APE09-1247, 1996 Ohio App. LEXIS 949. The rules do not require the trial court to address all claims raised. The third assignment of error is overruled.

{¶68} The trial court found the review commission's decision that Mr. William was discharged with just cause supported by "a preponderance of substantial and reliable evidence." Applying the standard of review set forth in R.C. 4141.282(H), our own independent review of the record indicates the review commission's decision was not unlawful, unreasonable, or against the manifest weight of the evidence. Thus, we affirm the judgment of the trial court.

{¶69} The judgment of the Trumbull County Court of Common Pleas is affirmed.

DIANE V. GRENDELL, J.,

THOMAS R. WRIGHT, J.,

concur.