

041

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 9

DANE COUNTY

CAROL L. AUSTIN,

Plaintiff,

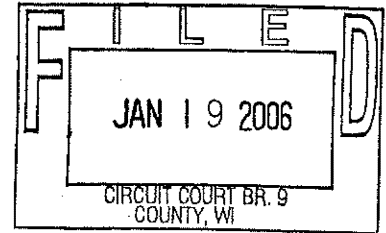
DECISION AND ORDER

vs.

Case No. 05-CV- 02825

LABOR AND INDUSTRY
REVIEW COMMISSION,

Defendant.



On plaintiff Carol L. Austin's claim for unemployment compensation benefits under Chapter 108, on July 26, 2005, defendant Labor and Industry Review Commission (LIRC), adopted and affirmed the Findings of Fact and Conclusions of Law made by Administrative Law Judge Ronald I. Weisbrod of the Division of Unemployment Insurance of the Department of Workforce Development on March 7, 2005. That award, stemming from a February 23, 2005 evidentiary hearing, held that plaintiff "voluntarily terminated her employment [with defendant CUNA Mutual Insurance Society], but not for any reason that permits the immediate payment of unemployment insurance benefits." On this judicial review, plaintiff seeks to set aside the award or, in the alternative, have her unemployment compensation claim remanded to the Division for additional findings. Plaintiff claims that LIRC made erroneous factual findings, misapplied the law, and affirmed a decision that was unsupported by credible evidence.

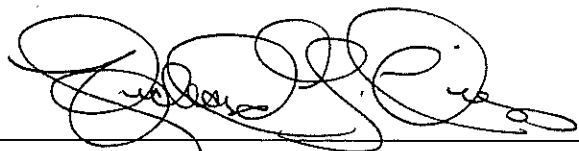
Plaintiff's challenge is without merit, and LIRC's decision is affirmed. I have reviewed the evidentiary record and the briefs of the parties, and conclude that LIRC's decision is supported by credible and substantial evidence. Furthermore, LIRC acted within its powers, and without any hint of fraud.

This court accords great weight to LIRC's determination that plaintiff voluntarily terminated her employment under the holding of Harnischfeger Corp v. LIRC, 196 Wis.2d 650, 660, 539 N.W.2d 98 (1995). This court holds that LIRC's finding that plaintiff terminated her employment within the meaning of section 108.04(7)(a), which is a question of law, is reasonable, and supported by credible and substantial evidence.

Any further analysis by this court is irrelevant and immaterial. The Court of Appeals is essentially uninterested in this court's decision. In Stafford Trucking, Inc. v. DILHR, 102 Wis.2d 256, 260, 306 N.W.2d 79, 82 (Ct. App. 1981), Court of Appeals stated:

“We do not deal with the question of whether the circuit court made the right decision. Our task is merely to determine whether the commission's decision was correct. Liberty Trucking Co. v. ILHR Department, 57 Wis.2d 331, 342, 204 N.W.2d 457, 463-64 (1973). We, therefore, owe no special deference to the decision of the circuit court.”

Dated this 19 day of January, 2006.

A handwritten signature in black ink, appearing to read "Richard G. Niess", written over a horizontal line.

Richard G. Niess
Circuit Judge

CC: Attorney Thomas R. Crone
Attorney William W. Cassel
Carol L. Austin
file