

[Cite as *Webb v. Ohio Dept. of Rehab. and Corr.*, 2004-Ohio-5920.]

IN THE COURT OF CLAIMS OF OHIO

ALMA WEBB, Admx. :
Plaintiff : CASE NO. 2002-02248
v. : Judge Fred J. Shoemaker
Magistrate Steven A. Larson
OHIO DEPARTMENT OF : JUDGMENT ENTRY
REHABILITATION AND CORRECTION :
Defendant :
: :
: :
: :

{¶ 1} This case was tried to a magistrate of the court. On August 24, 2004, the magistrate issued a decision recommending judgment for defendant.

{¶ 2} On September 7, 2004, plaintiff filed a request for findings of fact and conclusions of law pursuant to Civ.R. 52 and 53(E)(2).

{¶ 3} The purpose of the rule requiring the court to issue separate findings of fact and conclusions of law is to apprise the parties of the grounds for the decision and to inform the reviewing court of the reasons for the decision. The test of their adequacy is whether they are sufficiently comprehensive and pertinent to the issue to form a basis for the decision. See *Strah v. Lake County Humane Society* (1993), 90 Ohio App.3d 822, 836; *Domestic Linen Supply & Laundry Co. v. Kenwood Dealer Group, Inc.* (1996), 109 Ohio App.3d 312.

{¶ 4} In this case, the magistrate issued a five-page decision that included factual findings and conclusions of law. Although the findings and conclusions are not separately set out in the decision, the body of the decision provides clearly identifiable factual findings and specific conclusions of law. In the opinion of the court, the magistrate’s decision contains sufficient detail to allow plaintiff to frame her objections and for the court to independently review those objections. Requiring the magistrate to issue separate findings of fact and conclusions of law would be a needless waste of limited court resources. Accordingly, plaintiff’s request is DENIED.

{¶ 5} With respect to plaintiff's objections, Civ.R. 53(E)(3)(a) provides in relevant part: "Within 14 days of the filing of a magistrate's decision, a party may file written objections to the magistrate's decision ***." Plaintiff timely filed objections. Defendant filed a response.

{¶ 6} Plaintiff's objections read as follows:

{¶ 7} "1.) The Magistrate's Decision is against the manifest weight of the evidence;

{¶ 8} "2.) The Magistrate's Decision is contrary to law."

{¶ 9} Under Civ.R. 53(E)(3)(b) "[o]bjections shall be specific and state with particularity the grounds of objection." In objecting to the magistrate's decision on the basis of the weight of the evidence, plaintiff challenges several of the factual findings made by the magistrate in support of his recommendation. However, Civ.R. 53(E)(3)(c) states, in pertinent part: "**** Any objection to a finding of fact shall be supported by a transcript of all the evidence submitted to the magistrate relevant to that fact or an affidavit of that evidence if a transcript is not available. ****"

{¶ 10} Plaintiff has failed to support the objections with a transcript as required by Civ.R. 53(E)(3)(c). Absent the required transcript, the court is unable to conduct an independent review of the evidence in ruling upon the merits of plaintiff's objections. See *State ex rel. Duncan v. Chippewa Twp. Trustees*, 73 Ohio St.3d 728, 730, 1995-Ohio-272; *Wade v. Wade* (1996), 113 Ohio App.3d 414, 418-419; *Ohio Edison Co. v. Gilmore* (1995), 106 Ohio App.3d 6, 10-11. Moreover, the court finds that the magistrate's decision contains sufficient findings to support the legal conclusion on the issue of liability. Accordingly, plaintiff's objections are OVERRULED.

{¶ 11} Upon review of the record and the magistrate's decision, the court determines that there is no error of law or other defect on the face of the magistrate's decision. Therefore, the court adopts the magistrate's decision and recommendation as its own including the findings of fact and conclusions of law contained therein. Judgment is rendered in favor of defendant. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

FRED J. SHOEMAKER
Judge

Entry cc:

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AS/cmd
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