

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, THIRD DEPARTMENT

Matter of Roberta B. Katz (Commissioner of Labor)

Matter of Katz · No. 518718 · Decided November 6, 2014

SUMMARY

The New York Supreme Court, Appellate Division, Third Department affirmed an Unemployment Insurance Appeal Board decision disqualifying Roberta B. Katz from receiving benefits because she voluntarily left her employment without good cause. The court held that, despite the trainer's allegedly inappropriate conduct concerning Katz's religious observance, Katz resigned before giving the employer an opportunity to investigate or take corrective action, and substantial evidence supported the Board's determination.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Peters, P.J.; Stein, J.; Garry, J.; Egan Jr., J.; Devine, J.
JURISDICTION	New York
DECIDED	November 6, 2014
DOCKET	518718
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claimant appealed from a decision of the Unemployment Insurance Appeal Board disqualifying her from receiving unemployment insurance benefits because she voluntarily left her employment without good cause.
STANDARD OF REVIEW	Whether substantial evidence supports the Unemployment Insurance Appeal Board's determination.
PRECEDENTIAL VALUE	published
PARTIES	Roberta B. Katz v. Commissioner of Labor

TOPICS

- unemployment benefits
- religious discrimination
- judicial review of agency action
- administrative law
- employment law

PRACTICE AREAS

employment law

unemployment benefits

administrative law

QUESTIONS PRESENTED

1. Whether substantial evidence supported the Unemployment Insurance Appeal Board's determination that claimant voluntarily left her employment without good cause.
2. Whether claimant's departure based on the alleged religious harassment was justified when she resigned without first giving the employer an opportunity to investigate or take corrective action.

HOLDINGS

1. Substantial evidence supported the Board's determination that claimant voluntarily left her employment without good cause because she resigned without affording the employer an opportunity to investigate the incident or take corrective action.

KEY QUOTATIONS

“Regardless of the inappropriateness of the trainer's actions, claimant resigned from her position without affording the employer an opportunity to investigate the matter or take corrective action.” (at 2)

FACTUAL BACKGROUND

Claimant began working for an organization providing vocational services for persons with disabilities and was being trained to become director of accounting. Before accepting the position, she was assured that her religious practices would be accommodated, including leaving early on Friday to observe the Jewish Sabbath. After a trainer required her assistance with a report beyond the agreed departure time, claimant did not return to work and resigned by email, without first discussing the incident with human resources or giving the employer an opportunity to investigate or correct the situation.

PROCEDURAL HISTORY

After resigning from a newly obtained accounting position, claimant applied for unemployment insurance benefits. The Unemployment Insurance Appeal Board ruled that she was disqualified because she voluntarily left her employment without good cause. The Appellate Division reviewed the Board's determination and affirmed.

DISPOSITION

affirmed

CASES CITED

- Matter of Schwartz [New York City Dept. of Citywide Admin. Servs.–Commissioner of Labor], 62 AD3d 1231, 1232 (2009)
- Matter of Roman [Commissioner of Labor], 32 AD3d 1067, 1068 (2006)

OPINION

PER CURIAM.

State of New York Supreme Court, Appellate Division Third Judicial Department Decided and Entered: November 6, 2014 518718 _____ In the Matter of ROBERTA B. KATZ, Appellant. MEMORANDUM AND ORDER COMMISSIONER OF LABOR, Respondent. _____ Calendar Date: September 16, 2014 Before: Peters, P.J., Stein, Garry, Egan Jr. and Devine, JJ. _____ Abraham J. Katz, Lake Success, for appellant.

Eric T. Schneiderman, Attorney General, New York City (Marjorie S. Leff of counsel), for respondent. _____ Appeal from a decision of the Unemployment Insurance Appeal Board, filed July 12, 2013, which ruled that claimant was disqualified from receiving unemployment insurance benefits because she voluntarily left her employment without good cause.

On December 3, 2012, claimant began working for an organization that provides vocational services for persons with disabilities. Her hours were Monday through Friday from 9:00 a.m. to 5:00 p.m. and she was being trained to take the position of director of accounting. Prior to accepting the job, she received the employer's assurance that her religious practices would be accommodated.

In accordance therewith, she wanted to leave work at 2:45 p.m. on Friday, December 7, 2012 to observe the Jewish Sabbath. Her trainer scheduled a meeting on that date from 2:00 p.m. until 3:00 p.m., but told claimant that she could leave at 2:45 p.m. At 2:40 p.m., however, the trainer told claimant that she needed her to prepare a computer-generated -2- 518718 report.

When claimant responded that she could not complete it within five minutes, the trainer agreed to prepare it herself but then asked claimant to log on to her computer to get a password the trainer needed to do the report. At 2:50 p.m., after observing that claimant was upset and anxious to get home, she told claimant to leave. Claimant did not report to work the following Monday, but resigned from her position due to what she perceived was religious harassment.

She applied for unemployment insurance benefits and the Unemployment Insurance Appeal Board ultimately ruled that she was disqualified from receiving them because she voluntarily left her employment without good cause. Claimant now appeals.

We affirm. Regardless of the inappropriateness of the trainer's actions, claimant resigned from her position without affording the employer an opportunity to investigate the matter or take corrective action. Indeed, she emailed the employer announcing her resignation the Sunday after the incident and before she even discussed it with the employer's human resources manager.

Under these circumstances, substantial evidence supports the Board's finding that claimant voluntarily left her employment without good cause (see Matter of Schwartz [New York City Dept. of Citywide Admin. Servs.—Commissioner of Labor], 62 AD3d 1231, 1232 [2009]; Matter of Roman [Commissioner of Labor], 32 AD3d 1067, 1068 [2006]).

We have considered claimant's remaining arguments and find them to be unpersuasive. Therefore, we decline to disturb the Board's decision. Peters, P.J., Stein, Garry, Egan Jr. and Devine, JJ., concur. ORDERED that the decision is affirmed, without costs. ENTER: Robert D. Mayberger Clerk of the Court