

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

In re the Claim of Moran

95 A.D.3d 1586 (N.Y. App. Div. 2012) · Decided May 24, 2012

SUMMARY

The Appellate Division affirmed an Unemployment Insurance Appeal Board decision disqualifying the claimant from receiving benefits because her employment was terminated for misconduct. The court held that substantial evidence supported the finding that the claimant forged a patient's mother's signature on an insurance form, and it deferred to the Hearing Officer's credibility determinations.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Per Curiam; Mercure, J.E.; Rose, J.; Spain, J.; Kavanagh, J.; McCarthy, J.
JURISDICTION	New York
DECIDED	May 24, 2012
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claimant appealed from a decision of the Unemployment Insurance Appeal Board disqualifying her from receiving unemployment insurance benefits because her employment was terminated for misconduct.
STANDARD OF REVIEW	Whether substantial evidence supports the Unemployment Insurance Appeal Board's determination; credibility determinations are left to the Hearing Officer.
PRECEDENTIAL VALUE	Published appellate decision
PARTIES	Claimant Moran v. Unemployment Insurance Appeal Board

TOPICS

unemployment benefits

agency adjudication

administrative law

employment law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether claimant's falsification of an insurance form constituted misconduct disqualifying her from receiving unemployment insurance benefits.
2. Whether substantial evidence supported the Unemployment Insurance Appeal Board's determination despite conflicting testimony.

HOLDINGS

1. An employee's falsification of business documents may constitute misconduct disqualifying the employee from receiving unemployment insurance benefits; claimant's conduct here constituted such misconduct.
2. Substantial evidence supported the Unemployment Insurance Appeal Board's decision, and the Appellate Division would not disturb it.

KEY QUOTATIONS

“An employee’s falsification of business documents may constitute misconduct disqualifying the employee from receiving unemployment insurance benefits” (95 A.D.3d at 1586)

FACTUAL BACKGROUND

Claimant worked as a receptionist at a dental office and completed and submitted insurance forms for payment. Her employer discovered that she had completed an insurance form bearing the forged signature of a patient's mother, and claimant admitted completing the form while denying that she had forged the signature. The Board determined that the conduct constituted disqualifying misconduct.

PROCEDURAL HISTORY

The Unemployment Insurance Appeal Board ruled that claimant was disqualified from receiving unemployment insurance benefits after her employer terminated her for forging a patient's mother's signature on an insurance form. Claimant appealed, and the Appellate Division affirmed the Board's decision.

DISPOSITION

affirmed

CASES CITED

- Matter of Novak [Commissioner of Labor], 52 A.D.3d 1144, 1145 (2008)
- Matter of McFarlane [Commissioner of Labor], 51 A.D.3d 1317, 1318 (2008), lv. denied, 11 N.Y.3d 710 (2008)
- Matter of Lumbrazo [Environmental Remediation Servs., Inc. — Commissioner of Labor], 79 A.D.3d 1500, 1500 (2010)

- Matter of Messado [City of New York — Commissioner of Labor], 76 A.D.3d 740, 741 (2010)

OPINION

In re the Claim of Moran 95 A.D.3d 1586

PER CURIAM.

Appeal from a decision of the Unemployment Insurance Appeal Board, filed March 23, 2011, which ruled that claimant was disqualified from receiving unemployment insurance benefits because her employment was terminated due to misconduct. Claimant worked as a receptionist at a dental office and her duties included completing insurance forms and submitting them for payment. She was terminated from her position after her employer discovered that she had forged the signature of a patient's mother on an insurance form. The Unemployment Insurance Appeal Board ruled that claimant was disqualified from receiving unemployment insurance benefits because her employment was terminated due to misconduct. Claimant appeals. We affirm. An employee's falsification of business documents may constitute misconduct disqualifying the employee from receiving unemployment insurance benefits (see Matter of Novak [Commissioner of Labor], 52 AD3d 1144, 1145 [2008]; Matter of McFarlane [Commissioner of Labor], 51 AD3d 1317,1318 [2008], lv denied 11 NY3d 710 [2008]). Here, the employer was informed by the patient's parents that his mother had not signed the insurance form authorizing payment to be made directly to the employer. When the employer questioned claimant about the form, she indicated that she had completed it as she had been instructed by a coworker. The employer reviewed other paperwork that the patient's mother had completed and determined that claimant had penned the signature on the form at issue. Although claimant denied forging the mother's signature, she admitted to completing the form. In view of the foregoing, and inasmuch as any inconsistencies in the testimony presented a credibility issue for the Hearing Officer to resolve (see Matter of Lumbrazo [Environmental Remediation Servs., Inc. — Commissioner of Labor], 79 AD3d 1500, 1500 [2010]; Matter of Messado [City of New York — Commissioner of Labor], 76 AD3d 740, 741 [2010]), we conclude that substantial evidence supports the Board's decision and find no reason to disturb it. Mercure, J.E, Rose, Spain, Kavanagh and McCarthy, JJ., concur. Ordered that the decision is affirmed, without costs.