

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: October 30, 2008

504559

In the Matter of CAROLINA
ORRIJOLA,

Appellant.

MEMORANDUM AND ORDER

COMMISSIONER OF LABOR,
Respondent.

Calendar Date: September 24, 2008

Before: Mercure, J.P., Spain, Rose, Kane and Kavanagh, JJ.

Carolina Orrijola, New York City, appellant pro se.

Appeal from a decision of the Unemployment Insurance Appeal Board, filed October 26, 2007, which, upon reconsideration, adhered to its prior decision ruling that claimant was disqualified from receiving unemployment insurance benefits because she voluntarily left her employment without good cause.

Claimant worked as a paralegal for a law firm for just under one year. One morning, she returned from an errand much later than the employer expected and, as a result, she and the employer became involved in an argument during which the employer told her to get out of his office but did not fire her. Nevertheless, claimant left the employer's premises and did not go back to work. She was subsequently disqualified from receiving unemployment insurance benefits on the basis that she voluntarily left her employment without good cause. The Unemployment Insurance Appeal Board adhered to this decision upon reconsideration, and this appeal followed.

We affirm. "It is well settled that criticism from a supervisor, even where it is perceived as unjust or unduly

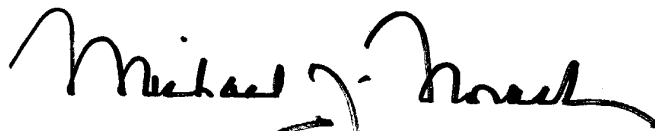
critical, does not necessarily constitute good cause for leaving employment" (Matter of DeCarlo [Commissioner of Labor], 6 AD3d 1003, 1003 [2004] [citations omitted]; see Matter of Feierman [Commissioner of Labor], 50 AD3d 1424, 1424 [2008]; Matter of Poliseno [Commissioner of Labor], 37 AD3d 938, 938 [2007]).

Here, claimant left her job after having a heated exchange with her employer concerning her work performance during which she felt that the employer addressed her in a disrespectful manner. While claimant maintained that she interpreted her employer's directive to leave his office as an indication that she was fired, her testimony presented a credibility issue for the Board to resolve (see Matter of Adorisio [Commissioner of Labor], 18 AD3d 942, 942-943 [2005]; Matter of Giustino [Commissioner of Labor], 11 AD3d 803, 804 [2004]). In view of the foregoing, substantial evidence supports the Board's decision and we decline to disturb it.

Mercure, J.P., Spain, Rose, Kane and Kavanagh, JJ., concur.

ORDERED that the decision is affirmed, without costs.

ENTER:

A handwritten signature in black ink, appearing to read "Michael J. Novack". The signature is fluid and cursive, with a large loop at the end.

Michael J. Novack
Clerk of the Court