

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

Decided and Entered: July 30, 2009

506193

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In the Matter of the Claim of  
SANDY MOORE,

Appellant.

MEMORANDUM AND ORDER

COMMISSIONER OF LABOR,

Respondent.

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Calendar Date: June 10, 2009

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

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Sandy Moore, New York City, appellant pro se.

Andrew M. Cuomo, Attorney General, New York City (Dawn A. Foshee of counsel), for respondent.

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Appeal from a decision of the Unemployment Insurance Appeal Board, filed July 28, 2008, which ruled that claimant was ineligible to receive additional unemployment insurance benefits pursuant to Labor Law § 599.

After losing her job as an accountant, claimant applied for career training benefits under Labor Law § 599. She wished to change her career from accounting to interior design. The Unemployment Insurance Appeal Board, however, disapproved her application. Claimant now appeals.

We affirm. Initially, we note that a training program for which benefits are available pursuant to Labor Law § 599 will not be approved unless either "the training will upgrade the claimant's existing skill or train the claimant for an occupation likely to lead to more regular long term employment" or "employment opportunities for the claimant are or may be

substantially impaired because of" a variety of reasons (Labor Law § 599 [1] [a] [1], [2]; see Matter of Alduen [Commissioner of Labor], 26 AD3d 579, 580 [2006]). Claimant concedes that the second requirement is inapplicable inasmuch as job opportunities for accountants are not substantially impaired. However, she claims that she is entitled to benefits under the former provision because she made the wrong career choice in accounting, has lost two accounting jobs and would be more likely to retain regular long-term employment in the field of interior design. We have not found any case law supporting the interpretation that a claimant's personal preference in making a career change entitles the claimant to benefits under the statute (see e.g. Matter of Schroder [Commissioner of Labor], 38 AD3d 1142, 1143 [2007]). Significantly, no proof was presented that claimant is not qualified to continue working as an accountant. Accordingly, we decline to disturb the Board's decision.

Mercure, J.P., Spain, Kane, Kavanagh and McCarthy, 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