

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

Decided and Entered: July 5, 2012

513727

In the Matter of the Claim of
MARVA M. SAMUEL,
Appellant.

MEMORANDUM AND ORDER

COMMISSIONER OF LABOR,
Respondent.

Calendar Date: May 9, 2012

Before: Mercure, J.P., Lahtinen, Malone Jr., Stein and
Egan Jr., JJ.

Marva M. Samuel, New York City, appellant pro se.

Eric T. Schneiderman, Attorney General, New York City
(Linda D. Joseph of counsel), for respondent.

Appeal from a decision of the Unemployment Insurance Appeal Board, filed March 1, 2011, which ruled that claimant was disqualified from receiving unemployment insurance benefits because her employment was terminated due to misconduct.

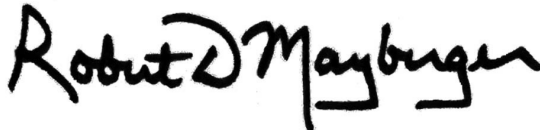
Claimant, a paraprofessional for a public school, was terminated from her employment after she took unauthorized leave from work to attend a two-week convention in South Africa during the school year. The Unemployment Insurance Appeal Board subsequently ruled that claimant was disqualified from receiving unemployment insurance benefits because she lost her employment through misconduct. We affirm. It is undisputed that claimant purchased her plane ticket for this conference prior to requesting permission from the employer and, further, that she left for the trip even after being informed that her request was denied and she would be subject to termination if she failed to

comply. Moreover, there is proof that, due to claimant's unauthorized absence and budget restrictions, the employer was forced to hire a substitute from funds set aside for school supplies. Under these circumstances, we find substantial evidence in the record supporting the Board's conclusion that claimant's unauthorized absence from work constituted disqualifying misconduct (see Matter of Rivers [Carbone Auto Group-Commissioner of Labor], 77 AD3d 1010, 1011 [2010]; Matter of Roe [Commissioner of Labor], 62 AD3d 1105, 1106 [2009]).

Mercure, J.P., Lahtinen, Malone Jr., Stein and Egan Jr., JJ., concur.

ORDERED that the decision is affirmed, without costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger
Clerk of the Court