

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

Decided and Entered: August 2, 2012

513734

In the Matter of the Claim of
DIANE E. BRISKIE,
Appellant.

MEMORANDUM AND ORDER

COMMISSIONER OF LABOR,
Respondent.

Calendar Date: June 6, 2012

Before: Rose, J.P., Spain, Kavanagh, McCarthy and Egan Jr., JJ.

Ronald R. Schur Jr., Mayfield, for appellant.

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 July 5, 2011, which ruled that claimant was disqualified from receiving unemployment insurance benefits because her employment was terminated due to misconduct.

Claimant's employment as a convenient store clerk was terminated after she admitted to consuming beverages from the store without paying for them. The Unemployment Insurance Appeal Board denied her application for unemployment insurance benefits on the ground that she lost her employment due to disqualifying misconduct. Claimant now appeals.

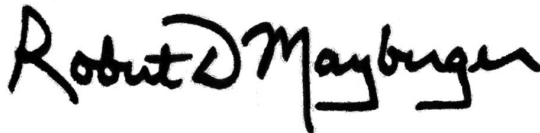
We affirm. A knowing violation of an employer's established policies, which has a detrimental effect on the employer's interest, has been held to constitute disqualifying misconduct (see Matter of Cheek [Commissioner of Labor], 89 AD3d 1313, 1313-1314 [2012]). Here, claimant had signed a document

acknowledging that she was aware of the employer's grazing policy that required employees to purchase any item before it was consumed and to have that receipt readily available. In view of this, we find that substantial evidence supports the Board's decision (see id.). Claimant's explanations for her conduct presented a credibility issue for the Board to resolve (see Matter of Weiner [Commissioner of Labor], 47 AD3d 1040 [2008]).

Rose, J.P., Spain, Kavanagh, McCarthy 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