

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

Decided and Entered: September 13, 2012

514080

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In the Matter of the Claim of  
DIANE C. HARRINGTON,  
Appellant.

DURETT BUSINESS MANAGEMENT  
CORPORATION,  
Respondent.

MEMORANDUM AND ORDER

COMMISSIONER OF LABOR,  
Respondent.

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Calendar Date: July 30, 2012

Before: Mercure, J.P., Lahtinen, Kavanagh, McCarthy and  
Egan Jr., JJ.

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Diane C. Harrington, Fort Edward, appellant pro se.

Purdue & Wells, Glens Falls (Phillip M. Perry of counsel),  
for Durett Business Management Corporation, respondent.

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

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Appeal from a decision of the Unemployment Insurance Appeal  
Board, filed January 19, 2012, which ruled that claimant was  
disqualified from receiving unemployment insurance benefits  
because she voluntarily left her employment without good cause.

Claimant worked as a payroll processor for a payroll  
company for over a year. When her supervisor approached her to  
discuss a payment error, a heated verbal exchange ensued.

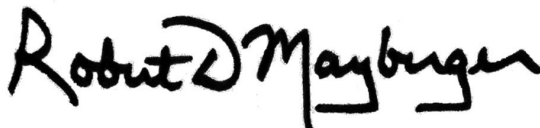
Claimant thought the supervisor called her stupid, at which point the confrontation escalated and claimant began yelling and making accusations at the supervisor. The owner of the company intervened and instructed claimant to calm down, go home for the day and return in the morning. Claimant gathered her personal belongings, left work and did not return. She applied for unemployment insurance benefits, but the Unemployment Insurance Appeal Board ruled that she was disqualified from receiving them because she voluntarily left her employment without good cause. Claimant now appeals.

We affirm. Criticism of one's work performance by a supervisor, even if unduly harsh, has been held not to constitute good cause for leaving one's employment (see Matter of Rizza [Commissioner of Labor], 67 AD3d 1239, 1239 [2009]; Matter of Orrijola [Commissioner of Labor], 55 AD3d 1201, 1202 [2008]). Here, claimant's abrupt departure was precipitated by a negative review of her work performance by her supervisor. Notably, neither claimant's supervisor nor the other individuals who overheard the conversation indicated that the supervisor called claimant "stupid" during the exchange. Although claimant maintained that she thought that she was fired, this presented a credibility issue for the Board to resolve (see Matter of Orrijola [Commissioner of Labor], 55 AD3d at 1202; Matter of Soto-Harold [Commissioner of Labor], 55 AD3d 1119, 1120 [2008]). Consequently, we find no reason to disturb the Board's decision.

Mercure, J.P., Lahtinen, Kavanagh, McCarthy and Egan Jr., JJ., concur.

ORDERED that the decision is affirmed, without costs.

ENTER:



Robert D. Mayberger  
Clerk of the Court