

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

Decided and Entered: September 28, 2017

524658

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In the Matter of the Claim of  
JOY HART,

Appellant.

MEMORANDUM AND ORDER

COMMISSIONER OF LABOR,  
Respondent.

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Calendar Date: August 7, 2017

Before: McCarthy, J.P., Rose, Clark, Aarons and Pritzker, JJ.

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Joy Hart, New York City, appellant pro se.

Eric T. Schneiderman, Attorney General, New York City (Gary Leibowitz of counsel), for respondent.

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Appeal from a decision of the Unemployment Insurance Appeal Board, filed May 26, 2016, which denied claimant's application for reopening and/or reconsideration of a prior decision.

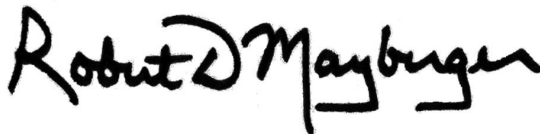
The Department of Labor issued an initial determination that, among other things, disqualified claimant from receiving unemployment insurance benefits and charged her with a recoverable overpayment. An Administrative Law Judge, among other things, ruled that claimant's appeal from the initial decision was untimely and continued in effect the initial determination. That decision was affirmed by the Unemployment Insurance Appeal Board by decision filed February 2, 2016. Subsequently, the Board, by decision dated May 26, 2016, denied claimant's application to reopen and reconsider its February 2, 2016 decision. Claimant appeals.

Claimant's appeal was not filed until October 6, 2016, which is well beyond 30 days from the Board's May 26, 2016 decision. Accordingly, the appeal is untimely and must be dismissed (see Labor Law § 624; Matter of Perrone [Commissioner of Labor], 66 AD3d 1091, 1091 [2009]). In any event, were we to review the Board's underlying decision, we would find no abuse of discretion in the Board's denial of claimant's application to reopen and reconsider its prior decision (see Matter of Abrue [E. Armata, Inc.-Commissioner of Labor], 120 AD3d 1501, 1502 [2014], lv dismissed 24 NY3d 1040 [2014]).

McCarthy, J.P., Rose, Clark, Aarons and Pritzker, JJ.,  
concur.

ORDERED that the appeal is dismissed, as untimely, 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