

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

Decided and Entered: May 19, 2005

96837

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In the Matter of SERENA GRAFF,  
Respondent.

RICHARD GRAYSON,  
Appellant.

MEMORANDUM AND ORDER

COMMISSIONER OF LABOR,  
Respondent.

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Calendar Date: April 13, 2005

Before: Mercure, J.P., Crew III, Mugglin, Rose and Kane, JJ.

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Law Offices of Richard E. Grayson, White Plains (Richard E. Grayson of counsel), appellant pro se.

Adam Peska, White Plains, for Serena Graff, respondent.

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Appeal from a decision of the Unemployment Insurance Appeal Board, filed February 10, 2004, which ruled that claimant was entitled to receive unemployment insurance benefits.

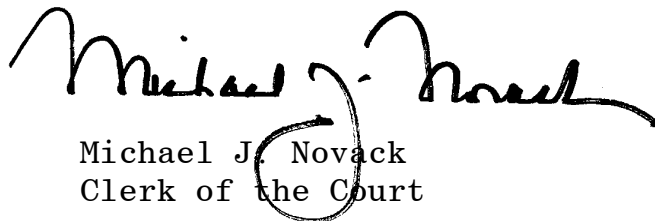
Claimant worked as a paralegal for the employer from January 15, 2002 until August 22, 2003, when she left this job to take a position with a real estate firm that paid a higher salary and provided greater benefits. Claimant was terminated from the real estate firm after working only a few days and she thereafter applied for and received unemployment insurance benefits, to which the employer objected. The Unemployment Insurance Appeal Board upheld claimant's receipt of benefits, and the employer now appeals.

Claimant's pursuit of a more favorable job offer constituted good cause for leaving her job with the employer (see Matter of Dank [Ross], 80 AD2d 717 [1981]; compare Matter of Kennedy [Commissioner of Labor], 294 AD2d 700 [2002]; Matter of Spinelli [Commissioner of Labor], 250 AD2d 920 [1998]). The employer's assertion that claimant accepted the new position knowing she lacked the requisite skills presented a question of credibility for the Board to resolve (see Matter of De Ruby [Commissioner of Labor], 10 AD3d 757, 758 [2004]). As substantial evidence supports the Board's decision, we decline to disturb it.

Mercure, J.P., Crew III, Mugglin, Rose and Kane, JJ.,  
concur.

ORDERED that the decision is affirmed, without costs.

ENTER:



Michael J. Novack  
Clerk of the Court