

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

Decided and Entered: August 3, 2017

524308

In the Matter of the Claim of
GLORIA DeSTEFANO,
Appellant.

MEMORANDUM AND ORDER

COMMISSIONER OF LABOR,
Respondent.

Calendar Date: June 12, 2017

Before: Peters, P.J., Garry, Devine, Mulvey and Rumsey, JJ.

Gloria DeStefano, Hicksville, appellant pro se.

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

Appeal from a decision of the Unemployment Insurance Appeal Board, filed July 25, 2016, which ruled that claimant was ineligible to receive unemployment insurance benefits because she did not comply with certification and registration requirements.

Claimant filed an original claim for unemployment insurance benefits in April 2015 after she was laid off from her job as a teaching assistant. The Department of Labor initially found her eligible to receive benefits, but this determination was overruled by an Administrative Law Judge (hereinafter ALJ) in October 2015 following a hearing. Claimant appealed and, in March 2016, she was notified that the Unemployment Insurance Appeal Board had reversed the ALJ's decision and found her eligible to receive benefits. While her appeal was pending, however, claimant failed to certify for benefits between December 21, 2015 and March 6, 2016 in accordance with Labor Law § 596 and the Department found her ineligible for benefits during this time

period. This determination was upheld by an ALJ following a hearing and later by the Board. Claimant now appeals.

We affirm. "It is well settled that registering and certifying for benefits in accordance with the Labor Law and applicable regulations is a necessary prerequisite to eligibility for benefits" (Matter of Lee [Commissioner of Labor], 38 AD3d 1039, 1039-1040 [2007] [internal quotation marks and citations omitted]; see Labor Law § 596; 12 NYCRR 473.1, 473.2, 473.3; Matter of Ventura [Commissioner of Labor], 83 AD3d 1330, 1330 [2011]). Whether good cause exists to excuse a claimant's noncompliance with these requirements is a factual issue for the Board to resolve (see 12 NYCRR 473.1 [g]; 473.2 [e]; Matter of Fleischer [Commissioner of Labor], 45 AD3d 1094, 1095 [2007]; Matter of Lee [Commissioner of Labor], 38 AD3d at 1040). Here, claimant stated that she did not certify during the time period in question because she did not feel comfortable given the ALJ's decision finding her ineligible for benefits. She nevertheless admitted that both the unemployment insurance handbook and the ALJ's decision advised her that she should continue to certify for benefits while her case was on appeal and that she made a mistake by not doing so. Under these circumstances, substantial evidence supports the Board's finding that good cause did not exist to excuse claimant's failure to certify and its conclusion that she was ineligible to receive benefits. Therefore, we find no reason to disturb the Board's decision.

Peters, P.J., Garry, Devine, Mulvey and Rumsey, 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 style with a large, prominent "R" at the beginning and a long, sweeping underline at the end.

Robert D. Mayberger
Clerk of the Court