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

Decided and Entered: May 18, 2017

523976

In the Matter of the Claim of
MARGARET CAMPISE,
Appellant.

COMMISSIONER OF LABOR,
Respondent.

MEMORANDUM AND ORDER

Calendar Date: April 4, 2017

Before: Peters, P.J., Garry, Egan Jr., Lynch and Rose, JJ.

Margaret Campise, West Islip, appellant pro se.

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

Appeal from a decision of the Unemployment Insurance Appeal Board, filed August 25, 2016, which ruled that claimant was disqualified from receiving unemployment insurance benefits because she voluntarily left her employment without good cause.

Claimant resigned from her position as an office manager and staff accountant after her request for a pay raise was denied. Claimant's subsequent application for unemployment insurance benefits was denied by the Unemployment Insurance Appeal Board on the basis that claimant voluntarily left her employment without good cause. Claimant now appeals.

We affirm. "Whether a claimant has voluntarily left employment for good cause is a factual determination to be made by the Board, and its decision will not be disturbed if supported by substantial evidence" (Matter of Garside [Commissioner of Labor], 73 AD3d 1420, 1420-1421 [2010] [citations omitted]; see

Matter of Malone [Commissioner of Labor], 117 AD3d 1306, 1306 [2014]). Here, claimant testified that her request for a pay raise was turned down by the employer because she had been observed using the employer's computer for personal reasons during work hours, which she claimed the employer characterized as stealing, that she had embarrassed the employer by mistakenly providing a client with the wrong credit card number, which was denied for lack of funds, and there currently was not enough work to keep her busy. Claimant further testified that she resigned due to emotional abuse, both regarding the reasons given for the denial of the pay raise and for an overall hostile work environment.

"It is well settled that dissatisfaction with wages does not constitute good cause for leaving employment for purposes of receiving unemployment insurance benefits" (Matter of Kelly [A-1 Tech., Inc.-Commissioner of Labor], 65 AD3d 1405, 1406 [2009] [citations omitted]; accord Matter of Doane [Commissioner of Labor], 140 AD3d 1497, 1497-1498 [2016]). Moreover, "criticism by an employer, even if considered to be harsh, does not constitute good cause for leaving one's employment" (Matter of Poliseno [Commissioner of Labor], 37 AD3d 938, 938 [2007] [internal quotation marks and citations omitted]; see Matter of Rizza [Commissioner of Labor], 67 AD3d 1239, 1239 [2009]). Based upon our review of the record, the employer's criticism of claimant's job performance was not "so intolerable as to justify claimant's resignation" (Matter of Poliseno [Commissioner of Labor], 37 AD3d at 938). Although claimant also contends that she resigned because of an overall hostile work environment, she testified that she would not have resigned at that time had it not been for the denial of her request for a pay raise and the reasons behind the denial. Further, the employer's owner testified that the only reason that claimant gave him for resigning was the fact that he had denied the pay raise. Inasmuch as "[i]ssues of witness credibility, the evaluation of evidence and the inference to be drawn therefrom are within the exclusive province of the Board" (Matter of Lowman [Commissioner of Labor], 101 AD3d 1282, 1283 [2012]; accord Matter of Malone [Commissioner of Labor], 117 AD3d at 1306), we conclude that the Board's decision that claimant did not leave her employment for good cause is supported by substantial evidence (see Matter of

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Poliseno [Commissioner of Labor], 37 AD3d at 938-939).

Peters, P.J., Garry, Egan Jr., Lynch and Rose, JJ., concur.

ORDERED that the decision is affirmed, without costs.

ENTER:



Robert D. Mayberger
Clerk of the Court

State of New York

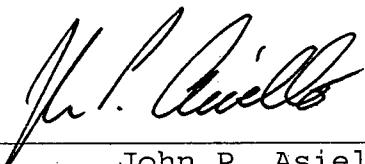
Court of Appeals

Decided and Entered on the
thirteenth day of February, 2018

Present, Hon. Janet DiFiore, *Chief Judge, presiding.*

Mo. No. 2018-4
In the Matter of Margaret
Campise,
Appellant.
Commissioner of Labor,
Respondent.

Appellant having moved for reargument of a motion for
leave to appeal to the Court of Appeals in the above cause;
Upon the papers filed and due deliberation, it is
ORDERED, that the motion is denied.



John P. Asciello
Clerk of the Court



GERALDINE A. REILLY
CHAIRMAN
MICHAEL T. GREASON
GEORGE FRIEDMAN
JAMES S. ALESI
RANDALL T. DOUGLAS
MEMBERS

STATE OF NEW YORK
UNEMPLOYMENT INSURANCE APPEAL BOARD

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TERESA A. DEMEO
CHRISTOPHER M. TATE
MATTHEW J. TIERNEY
PRINCIPAL ADMINISTRATIVE LAW JUDGE

DECISION OF THE BOARD
DECISIÓN DE LA JUNTA

Mailed and Filed: AUG 25 2016

Appeal Board No. 590547

IN THE MATTER OF:

MARGARET CAMPISE
94 CHEROKEE AVE
WEST ISLIP NY 11795-4126

PLAYSITES & SURFACES INC
103 BRIGHTSIDE AVE
CENTRAL ISLIP NY 11722-2706

A.S.O. - Appeals Section
Department of Labor Office: 801

A.L.J. Case No. 016-07724

PLEASE TAKE NOTICE that the commissioner, or any other party affected by this decision who appeared before the Appeal Board, may appeal questions of law involved in such decision to the Appellate Division of the Supreme Court, Third Department, by written notice mailed to the Unemployment Insurance Appeal Board, PO Box 15126, Albany, New York 12212-5126 within **THIRTY DAYS** from the date this decision was mailed.

POR FAVOR TOME NOTA que el comisionado o cualquier otra parte afectada por esta decision que haya comparecido ante la Junta de Apelaciones puede apelar aspectos legales de dicha decision a Appellate Division of the Supreme Court, Third Department, enviando un aviso escrito a Unemployment Insurance Appeal Board, PO Box 15126, Albany, New York 12212-5126 dentro de los **TREINTA DIAS** a partir de la fecha en que esta decision fue enviada por correo.

**DOCUMENTO IMPORTANTE. PUEDE OBTENER UNA TRADUCCIÓN DEL MISMO LLAMANDO
AL 1-888-209-8124 (FUERA DEL ESTADO DE NUEVA YORK 1-877-358-5306)**

PRESENT: MICHAEL T. GREASON, MEMBER

The Department of Labor issued the initial determination disqualifying the claimant from receiving benefits, effective April 1, 2016, on the basis that the claimant voluntarily separated from employment without good cause. The claimant requested a hearing.

The Administrative Law Judge held a hearing at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There were appearances by the claimant and on behalf of the employer. By decision filed June 3, 2016 (A.L.J. Case No. 016-07724), the Administrative Law Judge sustained the initial determination.

The claimant appealed the Judge's decision to the Appeal Board. The Board considered the arguments contained in the written statements submitted by the claimant and on behalf of the employer.

We have reviewed the entire record and have considered the testimony and other evidence. It appears that no errors of fact or law have been made. The findings of fact and the opinion of the Administrative Law Judge are fully supported by the record and, therefore, are adopted as the findings of fact and the opinion of the Board.

DECISION: The decision of the Administrative Law Judge is affirmed.

**Additional material
from this filing is
available in the
Clerk's Office.**