



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: JANUARY 07, 2021

IN THE MATTER OF:

Appeal Board No. 612694 A

PRESENT: MICHAEL T. GREASON, MEMBER

The claimant applied to the Appeal Board pursuant to Labor Law § 534 for a

reopening and reconsideration of Appeal Board No. 612092, filed September 24, 2020, which affirmed the decision of the Administrative Law Judge and sustained the employer's objection that the claimant should be disqualified from receiving benefits because the claimant voluntarily separated from employment without good cause and overruled the initial determination holding the claimant eligible to receive benefits.

Upon consideration of the application to reopen, after due notice to the parties, the Board has decided to reopen and reconsider its decision.

The Board makes the following:

FINDINGS OF FACT: The claimant worked for the employer, a hotel, as a part-time front desk agent from December 30, 2019 through February 3, 2020. She worked two to three days per week, working either the morning shift from 7:00 AM to 3:00 PM or the afternoon shift from 3:00 PM to 11:00 PM. There were no security guards at the hotel during the claimant's employment. Front desk agents have the ability to lock the entry door to the building so that either a room key was needed to enter or the person could use a video intercom system to ring the front desk for entry. The claimant had been told that the door was locked for the overnight shift.

The claimant worked alone at the front desk during her shift. A houseman, that the claimant saw maybe three times during the course of a shift, was also

present during the claimant's shift. Approximately three times per day people would wander in off the street to use a restroom at the hotel. No one checked on these people to determine if they were guests. At some point, the claimant had seen drug paraphernalia in the restroom.

In January 2020, the person that the claimant was relieving from the prior shift told the claimant that there had been an incident where drug addicts in one of the rooms stayed past checkout and several staff members were needed to get them out of the room. The coworker told the claimant that at some point a fight may have broken out in the lobby and police were called. The claimant did not observe the incident and did not see a fight in the lobby or see the police at the hotel.

The claimant told the general manager that she was not comfortable working at the front desk alone. The general manager told her that it was not feasible to have two people working at the desk. She told the claimant that there was a security camera at the front desk and that she would be fine. The claimant also asked for a set schedule but was informed that she could not be given a set schedule due to business needs.

The claimant voluntarily quit her job because she was concerned with her safety.

OPINION: The credible evidence establishes that the claimant voluntarily quit her because she had concerns for her safety. Even accepting the claimant's testimony that she told the general manager that she felt uncomfortable working alone at the front desk, we do not find that her concern for her safety was reasonable. The claimant has testified that she was told by a coworker of an incident involving drug addicts, a fight in the lobby, and police presence at the property which allegedly occurred in January 2020. It is significant that the claimant admittedly did not see the such an incident occur and there is no evidence that she had been involved in the incident. Likewise, the claimant's testimony that she had seen drug paraphernalia in the restroom does not indicate that she was present when any illegal substances may have been used or that any drugs were used by anyone during her shift. The claimant has not provided any significant evidence to establish that the property or even the neighborhood was unsafe. We therefore conclude that the claimant's voluntary quit was without good cause. As the undisputed facts establish that the claimant last worked on February 3, 2020, the claimant is disqualified from receiving benefits effective February 4, 2020.

DECISION: The decision of the Appeal Board is rescinded.

The decision of the Administrative Law Judge is affirmed.

The employer's objection, that the claimant should be disqualified from receiving benefits because the claimant voluntarily separated from employment without good cause, is sustained, effective February 4, 2020.

The initial determination, holding the claimant eligible to receive benefits, is overruled.

The claimant is disqualified from receiving benefits, effective February 4, 2020, until the claimant has subsequently worked in employment and earned remuneration at least equal to 5 times the claimant's weekly

benefit rate for all claims filed on or before January 1, 2014, or until the claimant has subsequently worked in

employment and earned remuneration at least equal to 10 times the claimant's weekly benefit rate for all claims filed after January 1, 2014. Employment and earnings from non-covered, excluded or self-employment will not count.

The claimant is denied benefits with respect to the issues decided herein.

MICHAEL T. GREASON, MEMBER