



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

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DECISION OF THE BOARD

Mailed and Filed: NOVEMBER 09, 2020

IN THE MATTER OF:

Appeal Board No. 612527

PRESENT: RANDALL T. DOUGLAS, MEMBER

The Department of Labor issued the initial determination, holding the claimant eligible to receive benefits, effective November 25, 2019, on the grounds that the claimant did not voluntarily separate from employment under disqualifying conditions. The employer requested a hearing and objected contending that the claimant should be disqualified from receiving benefits because the claimant refused an offer of suitable employment without good cause.

The Administrative Law Judge held telephone conference hearings at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There were appearances on behalf of the claimant and the employer. By decision filed September 18, 2020 (A.L.J. Case No.), the Administrative Law Judge sustained, effective January 13, 2020, the employer's objection that the claimant refused an offer of suitable employment without good cause and overruled the initial determination.

The claimant appealed the Judge's decision in to the Appeal Board.

Based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: In A.L.J. Case Nos. 020-06367, 020-06744 and 020-06745, a hearing was held on June 25, 2020 regarding initial determinations disqualifying the claimant from receiving benefits, effective January 13, 2020, on the basis that the claimant refused an offer of suitable employment without good cause; charging the claimant with an overpayment of \$1,102 in benefits recoverable pursuant to Labor Law § 597 (4); and reducing the

claimant's right to receive future benefits by eight effective days and charging a civil penalty of \$165 on the basis that the claimant made a willful misrepresentation to obtain benefits. There was an appearance by the claimant. There was no appearance by the employer. By decision filed June 25, 2020 (A.L.J. Case Nos. 020-06367, 020-06744 and 020-06745) the Administrative Law Judge overruled the initial determinations.

OPINION: The issue of refusal of suitable employment without good cause was previously adjudicated in A.L.J. Case Nos. 020-06367, 020-06744 and 020-06745 and decided on June 25, 2020. Therefore, the Judge lacked the authority to adjudicate the issue of refusal of an offer of suitable employment without good cause in the decision filed September 18, 2020. The employer's appropriate remedy to contest the job refusal issue is to apply to reopen the decision filed June 25, 2020. Accordingly, we conclude that the initial determination holding the claimant eligible to receive benefits because the claimant did not voluntarily separate from employment under disqualifying conditions should be sustained.

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

The employer's objection, that the claimant should be disqualified from receiving benefits, is overruled.

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

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

RANDALL T. DOUGLAS, MEMBER