



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

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DECISION OF THE BOARD

Mailed and Filed: SEPTEMBER 16, 2021

IN THE MATTER OF:

Appeal Board No. 616287

PRESENT: JUNE F. O'NEILL, MEMBER,

The Department of Labor issued the initial determination disqualifying the claimant from receiving benefits, effective November 4, 2020, on the basis that the claimant voluntarily separated from employment without good cause. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There was an appearance by the claimant. By decision filed May 13, 2021 (), the Administrative Law Judge sustained the initial determination.

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

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

FINDINGS OF FACT: The claimant worked for three years as an account executive/sales representative for a division of a large international corporation which rented computers to businesses. During the COVID-19 pandemic the claimant's customer usage was not increasing as it had prior to the pandemic. The employer became dissatisfied with the claimant's performance. In October 2020, the claimant was told by his manager that he was not meeting expectations. The claimant was given 7 days to choose whether to leave immediately and take a payout package which included health benefits, paid COBRA for three months and a lump sum payout of \$30,000, which represented three months pay. If the claimant elected to stay for 30 days, and then was separated from employment the lump sum payment would be reduced to \$10,000

with partial health insurance coverage.

If the claimant elected to stay for 30 days, he would be put on a Performance Improvement Plan (PIP). The employer expected that the claimant would increase his sales by 20% in one month. The claimant would not be allowed to contact new customers, but rather, would need to contact existing customers and to have weekly meetings with customers who were having difficulty getting support from the employer. He was not given a new territory to find new customers. The claimant expressed his concerns about the options but was offered no change in terms. The claimant elected to accept the package which guaranteed him three months pay and health insurance coverage and quit on November 3, 2020.

OPINION: The credible evidence establishes that the claimant quit his employment on November 3, 2020 in order to accept a separation package which included three months pay and his health insurance. We accept the claimant's undisputed testimony that the pandemic had caused a decline in his sales with his regular customers and that he would not have been able to meet the employer's expectation of improving his sales by 20% in one month when he wasn't given a new territory or allowed to seek new customers. Had the claimant waited and continued to work for 30 days, he would have faced a loss of the significant monetary incentive offered by the employer, which he would have been unable to recoup. We therefore conclude that the claimant had good cause to quit his employment when he did and that he is entitled to receive benefits.

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

The initial determination disqualifying the claimant from receiving benefits, effective November 4, 2020, on the basis that the claimant voluntarily separated from employment without good cause is overruled.

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

JUNE F. O'NEILL, MEMBER