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

Decided and Entered: August 7, 2014 518352

In the Matter of the Claim of
WALTER W. McCARTHY,
Appellant.

MEMORANDUM AND ORDER

COMMISSIONER OF LABOR,
Respondent.

Calendar Date: June 9, 2014

Before: Lahtinen, J.P., Stein, McCarthy, Rose and Egan Jr., JJ.

Glass Krakower, LLP, New York City (Bryan D. Glass of counsel), for appellant.

Eric T. Schneiderman, Attorney General, New York City (Linda D. Joseph of counsel), for respondent.

Appeal from a decision of the Unemployment Insurance Appeal Board, filed April 22, 2013, which, among other things, ruled that claimant was disqualified from receiving unemployment insurance benefits because he voluntarily left his employment without good cause.

Claimant took a job as a plumber based on the representations of his union business agent as to the hours he would be working, but left the job after it became apparent that those representations had been inaccurate. Prior to quitting, claimant made no effort to address the issue with either the employer or his union (see Matter of Sampica [Commissioner of Labor], 252 AD2d 702, 703 [1998]). Dissatisfaction with one's work schedule does not constitute good cause for leaving one's employment, and substantial evidence accordingly supports the decision of the Unemployment Insurance Appeal Board disqualifying

claimant from receiving unemployment insurance benefits (see Matter of della Croce [Commissioner of Labor], 117 AD3d 1249, 1249 [2014]; Matter of Hurley, 67 AD3d 1153, 1154 [2009]). Inasmuch as claimant falsely reported when applying for benefits that he had left the job due to a lack of work, substantial evidence similarly supports the Board's finding that he had made a willful misrepresentation to obtain benefits (see Matter of DeGennaro [Commissioner of Labor], 68 AD3d 1274, 1275 [2009]).

Lahtinen, J.P., Stein, McCarthy, Rose and Egan Jr., JJ., concur.

ORDERED that the decision is affirmed, without costs.

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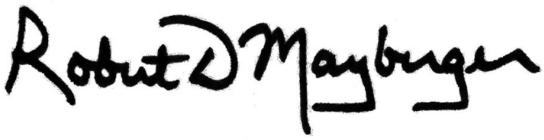

Robert D. Mayberger
Clerk of the Court