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

Decided and Entered: August 7, 2014 518308

In the Matter of the Claim of
TERRI L. TWEEDIE,
Appellant.

COUNTY OF DELAWARE, MEMORANDUM AND ORDER
Respondent.

COMMISSIONER OF LABOR,
Respondent.

Calendar Date: June 9, 2014

Before: Stein, J.P., Garry, Egan Jr., Lynch and Devine, JJ.

Pope & Schrader, LLP, Binghamton (Kurt Schrader of counsel), for appellant.

D. Jeremy Rase, County Attorney, Delhi, for County of Delaware, respondent.

Eric T. Schneiderman, Attorney General, New York City (Gary Leibowitz of counsel), for Commissioner of Labor, respondent.

Appeal from a decision of the Unemployment Insurance Appeal Board, filed April 3, 2013, which ruled that claimant was disqualified from receiving unemployment insurance benefits because she refused an offer of suitable employment without good cause.

Claimant left her position as an investigator in the employer's child protective unit and found other employment. When that employment ended, she applied for unemployment insurance benefits. Shortly thereafter, the employer offered

claimant a new position as a caseworker at the same salary as her previous employment. Claimant declined the offer, citing health and child care reasons. The application for benefits was initially denied, due to a determination that she had refused an offer of suitable employment without good cause. Following hearings, an Administrative Law Judge found that claimant had demonstrated good cause for refusing the employment. The Unemployment Insurance Appeal Board thereafter reversed and sustained the initial determination denying benefits. Claimant now appeals.

We affirm. "A claimant who refuses to accept a job for which he or she is reasonably suited by training and experience will be disqualified from receiving unemployment insurance benefits" (Matter of Schirra [Commissioner of Labor], 45 AD3d 1067, 1068 [2007] [internal quotation marks and citations omitted]; accord Matter of Guido [Commissioner of Labor], 108 AD3d 919, 920 [2013]; see Labor Law § 593 [2]). Here, claimant was offered a position for which she was qualified, but she averred that she was advised by a nurse practitioner to refuse the employer's offer due to claimant's anxiety over the time commitment required of the job and a lack of child care. However, the nurse practitioner testified that she did not advise claimant as to what kind of job claimant should take, and that her belief that claimant suffered from anxiety over her employment was based upon claimant's subjective complaints. Whether claimant had good cause to refuse the job offer presented a factual issue for the Board to resolve (see Matter of Ruiz [Commissioner of Labor], 70 AD3d 1098, 1099 [2010]; Matter of Murphy [Ross], 82 AD2d 970, 970 [1981]), and inasmuch as substantial evidence supports the Board's decision, we decline to disturb it (see Matter of Niedert [Commissioner of Labor], 98 AD3d 1160, 1161 [2012]; Matter of Ruiz [Commissioner of Labor], 70 AD3d at 1098; Matter of Davis [Commissioner of Labor], 297 AD2d 851, 852 [2002]).

Stein, J.P., Garry, Egan Jr., Lynch and Devine, JJ., concur.

ORDERED that the decision is affirmed, without costs.

ENTER:



Robert D. Mayberger
Clerk of the Court