

**The claimant is not eligible for benefits, pursuant to G.L. c. 151A, § 25(a), during the weeks that she was outside of the United States for the majority of the week and certified for benefits from Australia, New Zealand, Thailand, Laos, and India.**

**Board of Review  
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**Issue ID: 0016 6572 72**

## **BOARD OF REVIEW DECISION**

### **Introduction and Procedural History of this Appeal**

The claimant appeals a decision by E. Trelegan, a review examiner of the Department of Unemployment Assistance (DUA), to deny unemployment benefits. We review, pursuant to our authority under G.L. c. 151A, § 41, and we affirm in part and reverse in part.

On August 28, 2015, the DUA issued a Notice of Disqualification indicating that, pursuant to G.L. c. 151A, § 25(a), the claimant was ineligible for benefits for the weeks ending October 18, 2014, through February 7, 2015. That determination resulted in an overpayment of \$11,543.00. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits, attended by the claimant, the review examiner affirmed the agency's initial determination and denied benefits in a decision rendered on September 7, 2016. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant failed to meet the DUA's filing and registration requirements, under G.L. c. 151A, § 25(a), and, thus, was disqualified. After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal, we remanded the case to the review examiner to obtain additional testimony and other evidence pertaining to the claimant's exact travel dates. The claimant attended the remand hearing. Thereafter, the review examiner issued her consolidated findings of fact. Our decision is based upon our review of the entire record.

The issue on appeal is whether the review examiner's conclusion that the claimant failed to meet the filing and registration requirements, under G.L. c. 151A, § 25(a), between the weeks ending October 18, 2014, and February 7, 2015, is supported by substantial and credible evidence and is free from error of law, where, after remand, the consolidated findings indicate that the claimant was outside of the United States during the majority of each of the weeks at issue, and also during the week ending October 11, 2014.

### **Findings of Fact**

The review examiner's consolidated findings of fact and credibility assessments are set forth below in their entirety:

1. The claimant filed a claim for unemployment benefits on July 30, 2014. The effective date of the claimant was determined to be July 20, 2014.
2. The claimant previously worked as a Latin American Sales Executive. The claimant has previous work experience in international sales and finance.
3. The claimant left the United States on October 7, 2014. The claimant returned to the United States on February 7, 2015. (Exhibit 6, Pgs. 1-2) During the claimant's travels, the claimant visited Australia, New Zealand, Thailand, Laos, and India.
4. The reason the claimant traveled to Australia, New Zealand, Thailand, Laos, and India was to learn more about the currency, businesses, and sales to use in the claimant's future employment endeavors in the United States. The claimant also met and networked with different people from the sales and finance industries while in these countries.
5. The claimant electronically certified for unemployment benefits from week ending October 18, 2014 through week ending February 7, [2015], while the claimant was not in the United States.
6. The claimant was not legally permitted to work in Australia, New Zealand, Thailand, Laos or India.
7. The claimant intended to obtain employment in the United States.
8. On August 28, 2015, the Department of Unemployment Assistance issued to the claimant a Notice of Disqualification and Overpayment, which disqualified her for week ending October 18, 2014, through week ending February 7, 2015; and which found that she had been overpaid a total of \$11,543.00 for the week ending October 18, 2014, through week ending February 7, 2015.

#### Ruling of the Board

In accordance with our statutory obligation, we review the examiner's decision to determine: (1) whether the consolidated findings of fact are supported by substantial and credible evidence; and (2) whether the original conclusion that the claimant is not entitled to benefits is free from error of law. Upon such review and as discussed more fully below, the Board adopts the review examiner's consolidated findings of fact. In adopting these findings, we deem them to be supported by substantial and credible evidence. However, while we affirm the part of the decision which concludes that the claimant is ineligible for benefits between the weeks ending October 18, 2014, and February 7, 2015, we also find that the claimant is ineligible for benefits during the week ending October 11, 2014.

The claimant's eligibility for benefits is governed by G.L. c. 151A, § 25(a), which provides, in relevant part, as follows:

No waiting period shall be allowed and no benefits shall be paid to an individual under this chapter for—(a) Any week in which he fails without good cause to comply with the registration and filing requirements of the commissioner. The commissioner shall furnish copies of such requirements to each employer, who shall notify his employees of the terms thereof when they become unemployed.

The United States does not have a reciprocal agreement on the payment of benefits with any foreign country except Canada. *See* 430 CMR 4.00; DUA Service Representative Handbook § 1616 (B). As a result, a claimant is not allowed to file benefit certifications for periods in which she is outside of the United States, its territories or possessions, or Canada. At the initial hearing, the claimant agreed that she traveled to Australia, New Zealand, Thailand, Laos, and India between October of 2014, and February of 2015, but she was not asked for her specific travel dates. The claimant traveled to these countries to engage in activities related to her work search. After remand, the review examiner found that the claimant left the United States on October 7, 2014, and returned on February 7, 2015. Since the claimant was outside of the United States for the majority of each of the weeks ending October 11, 2014, through February 7, 2015 (at least four days each week), and the United States does not have a reciprocal agreement on the payment of benefits with the countries she visited, we conclude that the claimant failed, without good cause, to meet the filing and registration requirements, under G.L. c. 151A, § 25(a), during these weeks.

The review examiner's decision is affirmed in part and reversed in part. We affirm the part of the decision which concluded that the claimant is ineligible for benefits between the weeks ending October 18, 2014, and February 7, 2015. We reverse the part of the decision which indicates that the claimant's ineligibility begins on October 12, 2014, as the claimant is ineligible beginning on October 5, 2014. The agency must recalculate the claimant's overpayment in accordance with this decision.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION – January 19, 2017**



Judith M. Neumann, Esq.  
Member



Charlene A. Stawicki, Esq.  
Member

Chairman Paul T. Fitzgerald, Esq. did not participate in this decision.

**ANY FURTHER APPEAL WOULD BE TO A MASSACHUSETTS STATE DISTRICT  
COURT OR TO THE BOSTON MUNICIPAL COURT  
(See Section 42, Chapter 151A, General Laws Enclosed)**

The last day to appeal this decision to a Massachusetts District Court is thirty days from the mail date on the first page of this decision. If that thirtieth day falls on a Saturday, Sunday, or legal holiday, the last day to appeal this decision is the business day next following the thirtieth day.

To locate the nearest Massachusetts District Court, see:  
[www.mass.gov/courts/court-info/courthouses](http://www.mass.gov/courts/court-info/courthouses)

Please be advised that fees for services rendered by an attorney or agent to a claimant in connection with an appeal to the Board of Review are not payable unless submitted to the Board of Review for approval, under G.L. c. 151A, § 37.

SVL/rh