

The claimant was initially approved and paid benefits under a 2017 claim. Because the DUA's later determination disqualifying her under G.L. c. 151A, § 25(e)(1), was issued more than three years later, it is time-barred pursuant to G.L. c. 151A, § 71. The claimant need not repay any of her benefits.

Board of Review
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Issue ID: 0020 7477 44

Introduction and Procedural History of this Appeal

The claimant appeals a decision by a review examiner of the Department of Unemployment Assistance (DUA) to deny the claimant benefits following her separation from employment on January 6, 2017. We review, pursuant to our authority under G.L. c. 151A, § 41, and reverse.

Following the claimant's separation from employment, she filed a claim, effective January 8, 2017, and was awarded benefits. However, on June 12, 2020, the agency determined that the claimant was not entitled to unemployment benefits. The claimant appealed and both parties attended the hearing. In a decision rendered on December 18, 2021, the review examiner affirmed, concluding that the claimant voluntarily left employment without good cause attributable to the employer or urgent, compelling, and necessitous reasons and, thus, she was disqualified under G.L. c. 151A, § 25(e)(1).

Ruling of the Board

In rendering our decision, we have reviewed the recorded testimony and evidence from the hearing, the review examiner's decision, the DUA's electronic record-keeping system (UI Online), and the claimant's appeal. We need not consider whether the claimant established good cause attributable to the employer or urgent, compelling, and necessitous reasons for separating from her job pursuant to G.L. c. 151A, § 25(e)(1), because the DUA's underlying determination was improperly issued under G.L. c. 151A, § 71.

Upon the filing of a claim, the unemployment statute requires that the DUA determine whether or not the claim is valid.¹ The DUA will authorize the payment of unemployment benefits upon a minimum showing that a claimant earned sufficient qualifying wages during the base period² and

¹ G.L. c. 151A, § 39(a).

² G.L. c. 151A, § 24(a).

that the claimant separated from employment for qualifying reasons.³ Benefits are to be paid promptly, or denied, in accordance with its determination.⁴

Since the agency is prohibited by law from paying benefits without first determining that the claimant separated for qualifying reasons, and the DUA's UI Online system shows that the claimant was, in fact, paid benefits on this claim in a payment issued on January 24, 2017, we conclude that the DUA had, at that point, determined that the claimant's separation from the employer was qualifying under G.L. c. 151A, § 25(e).

This means that the DUA's June 12, 2020, determination was actually a redetermination. Pursuant to the time limitations set forth under G.L. c. 151A, § 71, the DUA may not issue a redetermination on a claim more than one year from the date of the original determination unless there is misrepresentation of fact. Because the claimant was originally determined to be eligible under G.L. c. 151A, § 25(e), on or before January 24, 2017, the agency's June 12, 2020, redetermination was issued more than one year from the date of the original determination. There is nothing in the record or UI Online to indicate misrepresentation.

We, therefore, conclude as a matter of law that the DUA's June 12, 2020, Notice of Disqualification was time-barred under G.L. c. 151A, § 71.

The review examiner's decision is reversed. The claimant is entitled to the benefits she received under her 2017-01 unemployment claim, if otherwise eligible.



Charlene A. Stawicki, Esq.
Member

BOSTON, MASSACHUSETTS
DATE OF DECISION - February 4, 2022



Michael J. Albano
Member

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

**ANY FURTHER APPEAL WOULD BE TO A MASSACHUSETTS
STATE DISTRICT 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.

³ G.L. c. 151A, § 25(e).

⁴ G.L. c. 151A, § 39(a).

**To locate the nearest Massachusetts District Court, see:
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.

AB/jv