

**Because the claimant was ultimately approved for training benefits under G.L. c. 151A, § 30(c) during the week at issue, she is exempt from the work search and availability requirements of G.L. c. 151A, § 24(b).**

**Board of Review  
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**Issue ID: 0021 0332 86**

## **BOARD OF REVIEW DECISION**

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

The claimant appeals a decision by A. Williams, 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 reverse.

The claimant filed a claim for unemployment benefits with the DUA on November 10, 2016. On February 17, 2017, the agency denied benefits to the claimant, pursuant to G.L. c. 151A, § 24(b), for the week ending February 11, 2017. 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 April 1, 2017. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant did not meet the availability and work search requirements of G.L. c. 151A, § 24(b), and, thus, was not entitled to benefits. Our decision is based upon our review of the entire record, including the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal.

The issue on appeal is whether the review examiner's conclusion that the claimant was not entitled to benefits because she did not meet the requirements of G.L. c. 151A, § 24(b), is supported by substantial and credible evidence and is free from error of law, where the claimant was subsequently approved for training benefits, under G.L. c. 151A, § 30(c).

### **Findings of Fact**

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

1. The claimant filed a new claim for unemployment benefits on 11/10/16.

2. During the week ending 2/11/17, the claimant certified her eligibility for benefits and indicated that she had performed work search activities on two days, 2/7/17 and 2/9/17.
3. The claimant worked most recently as a Doc. Control Specialist.
4. The claimant completed and submitted a questionnaire for the week in question on 2/14/17. In the questionnaire, the claimant indicated that she was not available for full-time work during this week because she was attending school. She was only available to work Monday through Friday from 2PM to 6PM and weekends.
5. The claimant answered the questionnaire as she did because she believed she would be entitled to Section 30 benefits.

### Ruling of the Board

In accordance with our statutory obligation, we review the examiner's decision to determine: (1) whether the 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 findings of fact. In adopting these findings, we deem them to be supported by substantial and credible evidence. However, in light of the DUA's decision in Issue ID 0020 9904 91, we conclude that the claimant is eligible for benefits, under G.L. c. 151A, § 24(b).

Since the review examiner determined that the claimant was neither available for full-time work nor actively searching for work, this case is governed by G.L. c. 151A, § 24(b), which provides, in pertinent part, as follows:

[An individual, in order to be eligible for benefits under this chapter, shall] . . . (b)  
Be capable of, available, and actively seeking work in his usual occupation or any  
other occupation for which he is reasonably fitted . . . .

We take administrative notice that on May 9, 2017, the DUA determined that the claimant was eligible for unemployment training benefits, under G.L. c. 151A, § 30(c). *See* Issue ID 0020 9904 91. Approval for benefits under G.L. c. 151A, § 30(c), results in a waiver of the work search and availability requirements of G.L. c. 151A, § 24(b). 430 CMR 9.01. At the time the review examiner issued the instant decision, the claimant's Section 30 training benefits had been denied by the DUA, and since the claimant did not establish that she met the requirements of G.L. c. 151A, § 24(b), the examiner correctly affirmed the Notice of Disqualification issued to the claimant in the instant case on February 17, 2017. However, in light of the agency's subsequent decision in Issue ID 0020 9904 91, we conclude that the claimant cannot be disqualified from receiving benefits, under G.L. c. 151A, § 24(b), during the period for which she has been approved under G.L. c. 151A, §30(c) — January 22, 2016, through October 28, 2017.

The review examiner's decision is reversed. The claimant is entitled to receive benefits for the week ending February 11, 2017, if otherwise eligible.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - December 15, 2017**



Paul T. Fitzgerald, Esq.  
Chairman



Charlene A. Stawicki, Esq.  
Member

Member Judith M. Neumann, 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