

**Board of Review  
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**Issue ID: 0021 3246 82**

## **BOARD OF REVIEW DECISION**

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

The claimant appeals a decision by Peter Sliker, a review examiner of the Department of Unemployment Assistance (DUA), to deny the claimant benefits for a six-week period of time. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On April 11, 2017, the agency initially determined that the claimant was not entitled to unemployment benefits under G.L. c. 151A, § 24(b), for the period beginning June 26, 2016, and lasting indefinitely. The claimant appealed and participated in a hearing via telephone. In a decision rendered on August 16, 2017, the review examiner modified the agency's initial determination, concluding that pursuant to G.L. c. 151A, § 24(b), the claimant was ineligible for benefits for the period beginning June 26, 2016, but adding an end date of August 6, 2016, to the disqualification period. The Board accepts the claimant's application for review.

### **Ruling of the Board**

After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal, we conclude that the review examiner's decision to disqualify the claimant pursuant to G.L. c. 151A, § 24(b), is based on substantial evidence and is free from any error of law affecting substantive rights.

Under G.L. c. 151A, § 24(b), a claimant must be capable of, available for, and actively seeking work for each week in which benefits are claimed. The burden is on the claimant to show that she meets all three of these requirements each week. The claimant must specifically demonstrate that she is available for full-time work, with few exceptions not relevant here.

The review examiner, based on both statements made by the claimant during the adjudication process and her testimony during the hearing, reasonably concluded that the claimant worked full-time in self-employment for her nascent real estate business during the period in question. Thus, the claimant was not available for full-time work under G.L. c. 151A, § 24(b).

However, the review examiner erred by stating that "the record includes no evidence of specific work search activity" and concluding that "the claimant was [not] engaged in a bona fide work search." In both her adjudication statements and at the hearing, the claimant consistently stated that she was engaged in work search activities separate from her real estate business. The review examiner did not ask any follow-up questions about her work search and did not request that the

claimant provide work search logs to corroborate her claim. On appeal to the Board, the claimant has provided work search logs for two of the weeks in question.

However, even if it is concluded that the claimant complied with the work search requirements of G.L. c. 151A, § 24(b), she is nevertheless disqualified because she failed to meet the separate availability requirements of G.L. c. 151A, § 24(b), as described above.

We, therefore, conclude as a matter of law that the claimant was not available for work during the six-week period in question. The review examiner's decision is affirmed. Pursuant to G.L. c. 151A, § 24(b), the claimant is denied benefits for the period of June 26, 2016, through August 6, 2016.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - September 26, 2017**



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**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.

JRK/rh