

**Board of Review  
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Member  
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**Issue ID: 0021 5876 32**

## **BOARD OF REVIEW DECISION**

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

The claimant appeals a decision by M. Lerner, a review examiner of the Department of Unemployment Assistance (DUA), to deny the claimant benefits after he filed a claim for unemployment benefits on April 18, 2017. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On May 9, 2017, the agency initially determined that the claimant was not entitled to unemployment benefits. The claimant appealed, and only the claimant attended the hearing. In a decision rendered on July 28, 2017, the review examiner affirmed the agency determination, concluding that the claimant was not in unemployment, since he was neither capable for nor available for any suitable work and, thus, was disqualified under G.L. c. 151A, §§ 29(a), 29(b), and 1(r). The Board accepted 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 is based on substantial evidence and is free from any error of law affecting substantive rights.

The review examiner's decision is affirmed. The claimant is denied benefits for the period beginning March 24, 2017, and for an indefinite period of time thereafter, until he meets the requirements of the law.

If the claimant receives medical clearance from his physician to return to work, he should submit an updated Health Care Provider's Statement of Capability to the DUA from his physician, stating the date he becomes capable of full-time work and any applicable restrictions on his capabilities, so that the agency can investigate the claimant's eligibility for benefits under G.L. c. 151A, §§ 24(b), 29(a), 29(b), and 1(r). If the claimant becomes capable of returning to work for this employer but becomes separated, the agency should investigate pursuant to G.L. c. 151A, §§ 25(e)(1) and 25(e)(2).

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - September 12, 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.

JPC/rh