

Board of Review
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Issue ID: 0021 8277 57

BOARD OF REVIEW DECISION

Introduction and Procedural History of this Appeal

The claimant appeals a decision by a review examiner of the Department of Unemployment Assistance (DUA), which concluded that the claimant is not monetarily eligible for a claim effective April 16, 2017. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On May 4, 2017, the agency determined that the claimant was not monetarily eligible for an unemployment claim with an effective date of April 16, 2017. The claimant appealed and attended the hearing. In a decision rendered on September 26, 2017, the review examiner affirmed the agency determination, concluding that the claimant is not monetarily eligible for a claim, pursuant to the provisions of G.L. c. 151A, §§ 24(a) and 1(a). The Board accepts the claimant's application for review.¹

Findings of Fact

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

1. The claimant opened an unemployment claim with an effective date of April 16, 2017. The Department of Unemployment Assistance (DUA) determined the claimant's primary base period was April 1, 2016 through March 31, 2017.
2. This was the claimant's second claim for unemployment benefits. His first was in 2013.
3. During the base period of his claim, the claimant worked for one (1) employer.
4. The claimant was paid total wages from his base period employers as follows:

FROM:	4/1/2016	7/1/2016	10/1/2016	1/1/2017
TO:	6/30/2016	9/30/2016	12/31/2016	3/31/2017

¹ The claimant's appeal to the Board was timely filed, but the appeal itself was not forwarded to the Board through the DUA's UI Online computer system, due to a computer error. We consider the appeal to be filed when the computer error was fixed on September 20, 2018.

[Company A] Inc.	\$0.00	\$280.00	\$1,100.00	\$1,046.00
TOTAL:	\$0.00	\$280.00	\$1,100.00	\$1,046.00

5. The claimant does not dispute the total wages of \$2,426.00 paid to him by the employer during the base period of his claim.
6. On May 4, 2017, the DUA issued a Monetary Determination stating the claimant was not monetarily eligible for unemployment benefits as he had \$2,426.00 in wages during the primary base period.

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 findings of fact are supported by substantial and credible evidence in the record, except for the employer name noted in Finding of Fact # 4. The claimant testified, and the agency documents indicate, that the claimant worked for the [Company B], not [Company A]. This minor error with the finding does not affect the monetary calculation undertaken by the review examiner.

As to the legal issue of whether the claimant is monetarily eligible for the unemployment claim, there was no legal error. As discussed by the review examiner in her decision, the claimant did not have sufficient wages in his primary base period to establish a claim.² We further note that the claimant would not have had sufficient wages in his alternate base period to file a valid claim. The alternate base period here would run from July 1, 2016 through April 15, 2017 (the day prior to the effective date of the claim). *See* G.L. c. 151A, § 1(a). We have reviewed the claimant's wage records, which the DUA has on file, and observe that the claimant earned a total of \$1,191.00 in the second quarter of 2017.³ Even if all of those wages were considered (although it is unlikely, given his wage history, that the claimant earned that much in the period from April 1 through April 15), the claimant would not have met the \$4,300.00 threshold for filing his claim.⁴

² G.L. c. 151A, § 24(a), states that a claimant must have earned \$2,000.00 in the base period. However, this amount has been changed, as required under the statute, based on changes to the minimum wage. The minimum amount of wages needed for a valid unemployment claim in 2017 was \$4,300.00.

³ During the hearing, the claimant was not disputing the amount of wages the DUA had on record. *See* Finding of Fact # 5 ("The claimant does not dispute the total wages . . . paid to him by the employer during the base period of his claim.").

⁴ The \$1,191.00 from the second quarter of 2017 plus the \$2,426.00 from the other quarters yields \$3,617.00.

The review examiner's decision is affirmed. The claimant is not monetarily eligible for an unemployment claim with an effective date of April 16, 2017.

BOSTON, MASSACHUSETTS
DATE OF DECISION – October 4, 2018



Charlene A. Stawicki, Esq.
Member



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 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

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.

SF/rh