

Because the claimant quit without a clear, specific reason for resigning and did not make reasonable efforts to preserve his job before leaving, he is disqualified under G.L. c. 151A, § 25(e)(1).

**Board of Review
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Issue ID: 0022 2934 87

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), to deny the claimant benefits following his separation from employment. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On July 29, 2017, the agency initially determined that the claimant was not entitled to unemployment benefits. The claimant appealed, and both parties attended the hearing. In a decision rendered on February 7, 2018, the review examiner affirmed the agency determination, concluding that the claimant voluntarily left employment without good cause attributable to the employer and, thus, was disqualified under G.L. c. 151A, § 25(e)(1). The Board accepted the claimant's application for review.

Findings of Fact

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

1. The claimant worked full time as a teacher counselor for the instant employer, a provider of services to individuals with disabilities, from 10/01/15 until 06/25/17.
2. The claimant worked for the employer Thursday through Sunday.
3. In August of 2016, the claimant's applied for a teacher counselor position at a different location. The claimant was not selected because another candidate had applied before him and was a better fit.
4. In November of 2016, the claimant applied for 2 different teacher counselor positions. The claimant was not selected for either position. The employer selects people for positions based on the needs of the specific house.

5. In April of 2017, the claimant was speaking to the house manager about working in another program for the employer.
6. The house manager made a comment about other employees not wanting to work with the claimant.
7. On or about 06/30/17, the claimant sent the employer a text message that he was going to be out of work for the week due to him having car problems.
8. The claimant was next scheduled to work on 07/06/17.
9. On 07/06/17, the claimant sent an email to Human Resources that he was tendering his resignation that day.
10. On 07/07/17, the claimant completed an exit interview with the employer.
11. During the exit interview, the claimant did not present any issues to the employer.
12. The claimant was not subject to any disciplinary action at the time of separation or prior to the separation.

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 finding of fact are supported by substantial and credible evidence in the record, except for Finding of Fact # 6. According to the claimant's testimony, the comment about other employees not wanting to work with the claimant occurred in November of 2016, and was said by a human resources representative.¹ Apparently, it was said in response to the claimant's concerns that he was not being transferred to another house. In April of 2017, when the claimant talked with his house manager, he testified that the house manager said "maybe [the claimant] should quit or something." Following this testimony, however, the claimant denied that she had told him to quit. He also testified that "she just walked away" when he was speaking to her about transferring to another house.

This one issue with Finding of Fact # 6 does not alter the result of this case, however. The ultimate decision to deny benefits is based on substantial evidence and is free from any error of law affecting substantive rights. The claimant failed to present a clear, specific reason for resigning which could have constituted good cause. The review examiner was also reasonable in concluding that the claimant did not make sufficient efforts to try to preserve his position.

¹ We have supplemented the findings of fact, as necessary, with the unchallenged evidence before the review examiner. See Bleich v. Maimonides School, 447 Mass. 38, 40 (2006); Allen of Michigan, Inc. v. Deputy Dir. of Department of Employment and Training, 64 Mass. App. Ct. 370, 371 (2005).

The review examiner's decision is affirmed. The claimant is denied benefits for the week beginning June 25, 2017, and for subsequent weeks, until such time as he has had at least eight weeks of work and has earned an amount equivalent to or in excess of eight times his weekly benefit amount.

BOSTON, MASSACHUSETTS
DATE OF DECISION - May 21, 2018



Paul T. Fitzgerald, Esq.
Chairman



Charlene A. Stawicki, Esq.
Member

Member Michael J. Albano 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