

**Board of Review**  
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**Member**  
**Michael J. Albano**  
**Member**

**Issue ID: 0023 0465 84**

## **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 for the two-week period from September 3, 2017 through September 16, 2017. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On December 20, 2017, the agency initially determined that the claimant was not entitled to unemployment benefits, beginning September 3, 2017. The claimant appealed, and only the claimant attended the hearing. In a decision rendered on February 28, 2018, the review examiner affirmed the agency determination, concluding that the claimant was not in unemployment from September 3, 2017, through September 16, 2017, and, thus, was disqualified under G.L. c. 151A, §§ 29 and 1. 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 findings of fact relating to whether the claimant was in unemployment for the weeks at issue are based on substantial evidence in the record. The only relevant findings needed to resolve this case relate to whether the claimant was in unemployment beginning September 3, 2017. Findings of Fact ## 4, 5, 6, and 12 are irrelevant to the issue before us. We also note that the word "fraudulently" in Finding of Fact # 11 is not a finding necessary to determine if the claimant was in unemployment for the two weeks addressed by the review examiner. Consideration of the findings relating to whether the claimant is at fault for any overpayment is best reserved for the decision in another case heard under Issue ID 0024 0331 32. Because those findings are not relevant here, we are not basing our decision on those findings. If the claimant disagrees with the review examiner's view of the fault issue, and the decision in Issue ID 0024 0331 32 is not in his favor, he must appeal that decision separately.

As to this matter, it is sufficient to uphold the review examiner's decision by noting that the review examiner found that the claimant worked full-time during the two weeks at issue and earned an amount in each week, which was in excess of his benefit rate. *See* Findings of Fact ## 8 and 15. Those findings are supported by the record. The findings lead to a conclusion that the claimant cannot receive benefits for the period beginning September 3, 2017. We note that the review examiner made a minor typographical error in the last paragraph of Part III of the

decision and in Part IV of her decision. The weeks at issue were all in September of 2017, not 2016.

The review examiner's decision is affirmed. The claimant is denied benefits for the period from September 3, 2017 through September 16, 2017.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - June 27, 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](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.

SF/rh