

**Board of Review
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**Paul T. Fitzgerald, Esq.
Chairman
Charlene A. Stawicki, Esq.
Member
Michael J. Albano
Member**

Issue ID: 0023 2355 47

BOARD OF REVIEW DECISION

Introduction and Procedural History of this Appeal

The employer appeals a decision by a review examiner of the Department of Unemployment Assistance (DUA) to award the claimant benefits during the period that she worked for the employer in a paid student internship from September, 2017, through May, 2018. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

The claimant filed an unemployment claim with the DUA, effective September 24, 2017. On November 4, 2017, the agency initially determined that the claimant was entitled to unemployment benefits. The employer appealed and both parties participated in a telephone hearing. In a decision rendered on December 23, 2017, the review examiner affirmed the agency determination, concluding that the claimant was in partial unemployment in any week of less than a full-time weekly schedule of work, and, thus, she was not disqualified under G.L. c. 151A, §§ 29(b) and 1(r)(1). The Board accepted the employer'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 employer's appeal, we conclude that based upon the record before the review examiner, her decision is supported by substantial evidence and is free from any error of law affecting substantive rights. The review examiner's decision is affirmed, and the claimant would be entitled to benefits, if otherwise eligible.

However, due to a decision rendered by another review examiner in Issue ID # 0023 2354 96 on January 18, 2018, the claimant has been disqualified from receiving any benefits during the period that she worked as a paid student intern for the employer. In Issue ID # 0023 2354 96, the claimant was disqualified under G.L. c. 151A, §§ 29 and 1(r), from September 21, 2017, through May 26, 2018, because work remained available to the claimant from a different employer. That decision was subsequently affirmed by the Board and the District Court.

We further note that the employer in the present appeal will not be charged for any benefits ultimately paid under this claim,¹ because it is not a base period employer.

BOSTON, MASSACHUSETTS
DATE OF DECISION - January 23, 2020



Paul T. Fitzgerald, Esq.
Chairman



Michael J. Albano
Member

Member Charlene A. Stawicki, 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.

AB/rh

¹ See Issue ID # 0025 7752 74.