

**Board of Review  
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**Issue ID: 0024 6753 51**

## **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 her separation from employment on February 2, 2018. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On March 3, 2018, the agency initially determined that the claimant was not entitled to receive unemployment benefits. The claimant appealed, and only the claimant attended the hearing. In a decision rendered on April 6, 2018, the review examiner affirmed the agency determination, concluding that the claimant voluntarily left employment without good cause attributable to the employer or urgent, compelling, and necessitous reasons and, thus, was disqualified under G.L. c. 151A, § 25(e)(1). The Board accepts 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 are based on substantial and credible evidence in the record, except for the following. In Finding of Fact # 6, the review examiner found that the Supervisor "supervised the claimant from around May, 2017, until February, 2017." Clearly, there is a typographical error in this finding; the second date should be "February 2018." In Finding of Fact # 18, the review examiner found that, in 2017, "the claimant accumulated medical bills totaling approximately \$500.00." The claimant's uncontested testimony from the hearing was that each emergency room appointment she had in 2017 was \$500.00, not that her total medical bills were \$500.00. The total amount of medical bills for 2017 is not clear from the record. In Finding of Fact # 20, the review examiner found that "the claimant received parking tickets on unknown dates totaling unknown amounts." While the dates of the parking tickets were not stated during the hearing, the claimant testified that they totaled \$278.00.<sup>1</sup> The other findings of fact are supported by a reasonable view of the evidence and testimony presented.

As to the ultimate outcome in this matter, we conclude that the decision is free from error of law. Although the claimant testified that she quit her job for several reasons, the review examiner weighed all of those reasons and concluded in Part III of his decision that the deciding factor to

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<sup>1</sup> 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).

quit was a result of the January, 2018, counseling and the claimant's subsequent viewing of the email. It was within the review examiner's purview to determine why the claimant quit her position. His conclusions are supported by the record.

Moreover, the conclusion that the claimant did not make adequate efforts to keep her job is also supported. Even if the claimant has shown a valid workplace complaint relating to the counseling and the email, the claimant needed to show that she tried to remedy the situation prior to quitting, or that such efforts would be futile. *See Guarino v. Dir. of Division of Employment Security*, 393 Mass. 89, 93-94 (1984). As noted, the review examiner concluded that the claimant quit due to her unhappiness and disagreement with the final counseling. Rather than wait to discuss the matter with Human Resources and/or her Director through the grievance process, the claimant quit prior to resolution of the grievance. Considering that the employer had previously been somewhat receptive to the claimant's complaints, *see Findings of Fact ## 2 and 14*, we do not think it was reasonable for the claimant to quit prior to the end of the grievance process. Therefore, the review examiner's conclusions relating to the claimant's job preservation efforts are reasonable.

The review examiner's decision is affirmed. The claimant is denied benefits for the week beginning January 28, 2018, and for subsequent weeks, until such time as she has had at least eight weeks of work and has earned an amount equivalent to or in excess of eight times her weekly benefit amount.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - April 25, 2018**



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Chairman



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Member

**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.