

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

**Issue ID: 0024 7276 87**

## **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. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On March 8, 2018, the agency initially determined that the claimant was entitled to receive unemployment benefits. The employer appealed, and both parties attended the hearing. In a decision rendered on June 2, 2018, the review examiner affirmed the agency determination, concluding that the claimant is eligible to receive benefits in any week in which she is in unemployment and, thus, was not disqualified under G.L. c. 151A, §§ 29 and 1. The Board accepts 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 the review examiner's decision is based on substantial evidence and is free from any error of law affecting substantive rights.

We do think that the review examiner was correct to cite 430 CMR 5.05(1) in his decision. This provision allows for the relief of charges to an employer's account, if a subsidiary employer (which the employer was in the instant case)<sup>1</sup> shows that it did not reduce a claimant's hours. In other words, charges may be relieved if the subsidiary employer did not cause the claimant's unemployment. If the employer in this case has concerns about charges to its account, it can contact the DUA's Employer Customer Service Line at (617) 626-5075. If the employer does receive notice that its account has been charged as a result of the claimant's unemployment claim, it may appeal such charges pursuant to G.L. c. 151A, § 14(k).

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<sup>1</sup> This employer was a subsidiary employer, because, when the claimant worked both of her jobs simultaneously, she worked fewer hours with the instant employer and, thus, earned less as well.

The review examiner's decision is affirmed. The claimant is entitled to receive benefits for the week beginning February 18, 2018, and for subsequent weeks if otherwise eligible.



Paul T. Fitzgerald, Esq.  
Chairman

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - July 3, 2018**



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