

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

**Issue ID: 0025 1929 96**

## **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 on March 20, 2018. Benefits were denied on the ground that the claimant engaged in deliberate misconduct in wilful disregard of the employer's interest and was, therefore, ineligible for benefits pursuant to G.L. c. 151A, § 25(e)(2).

The claimant had filed a claim for unemployment benefits, which was denied in a determination issued by the agency on April 25, 2018. The claimant appealed to the DUA Hearings Department. Following a hearing on the merits, the review examiner affirmed the agency's initial determination in a decision rendered on July 24, 2018. The claimant sought review by the Board, which dismissed the appeal for lack of jurisdiction, and the claimant appealed to the District Court pursuant to G.L. c. 151A, § 42.

On November 5, 2018, the District Court ordered the Board to review the appeal on the merits.<sup>1</sup> Consistent with this order, we have reviewed the claimant's appeal on the merits.

### Ruling of the Board

After considering the recorded testimony and evidence from the hearing, a post-hearing submission by the claimant's attorney, the review examiner's decision, the claimant's appeal, and the District Court's Order, we conclude that the review examiner's decision is based on substantial evidence and is free from any error of law affecting substantive rights.

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<sup>1</sup> Based upon the claimant's appeal to the Board, which was filed electronically through UI Online on August 24, 2018, one day beyond the statutory 30-day appeal period, the Board continues to believe it does not have jurisdiction to consider the claimant's appeal. *See* G.L. c. 151A, § 40. The Board does not have any record of a second, earlier copy of the claimant's appeal being filed through the U.S. Mail.

The review examiner's decision is affirmed. The claimant is denied benefits for the period beginning March 18, 2018, 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 – November 20, 2018**



Charlene A. Stawicki, Esq.  
Member



Michael J. Albano  
Member

Chairman Paul T. Fitzgerald, 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](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.

AB/rh