

Claimant, who received a notice to report for jury duty on a single day, did not have justifiable cause to take the entire week of approved training off. She is disqualified from receiving TRA benefits for that week.

**Board of Review
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Member
Michael J. Albano
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Issue ID: 0025 5443 15

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 Trade Readjustment Allowance (TRA) benefits pursuant to the federal Trade Act, as amended. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On May 23, 2018, the DUA TRA Unit initially determined that the claimant was not entitled to TRA cash benefits for the week beginning May 6, 2018. The claimant appealed and attended the hearing along with a representative from the TRA Unit. In a decision rendered on August 8, 2018, the review examiner affirmed the agency determination, concluding that the claimant did not establish good cause for not participating in her approved training during the week beginning May 6, 2018.

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 decision is based on substantial evidence and is free from any error of law affecting substantive rights.¹ Pursuant to 19 U.S.C. § 2291(b), an adversely affected worker is not entitled to receive TRA benefits for any week in which she ceases to participate in her approved training program, if there is no justifiable cause for not participating. The Trade Act regulations define justifiable cause as "such reasons as would justify an individual's conduct when measured by conduct expected of a reasonable individual in like circumstances, including but not limited to reasons beyond the individual's control and reasons related to the individual's capability to participate in . . . an approved training program." We agree with the review examiner that the claimant did not have justifiable cause to take the entire week of May 6, 2018, off from school simply because she received a notice to report for jury duty on May 8, 2018.

¹ Finding of Fact # 1 incorrectly states the claimant's training program as beginning on May 15, 2018. This is incorrect as the DUA records on UI Online show that she began the week of April 22, 2018. May 15, 2018, is the date that the claimant resumed training after missing a week. However, this error is not material to our decision.

The review examiner's decision is affirmed. The claimant is denied TRA benefits for the week beginning May 6, 2018.

BOSTON, MASSACHUSETTS
DATE OF DECISION - September 6, 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

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