

**Board of Review
19 Staniford St., 4th Floor
Boston, MA 02114
Phone: 617-626-6400
Fax: 617-727-5874**

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

Issue ID: 0027 9804 61

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. We review pursuant to our authority under G.L. c. 151A, § 41. We affirm the disqualifying nature of the claimant's separation from employment. However, the effective date of the disqualification is incorrectly noted in the decision.

On September 5, 2019, the agency initially determined that the claimant was not entitled to unemployment benefits. The claimant appealed, and both parties attended the hearing. In a decision rendered on September 25, 2019, 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.

Findings of Fact

The review examiner's findings of fact are set forth below in their entirety:

1. The claimant worked for the employer, a job placement agency, from January 1, 2015.
2. The claimant began a full time assignment on July 9, 2018.
3. In November 2018, the claimant requested a reduction to a part time schedule due to her attendance at school.
4. The employer granted the claimant's request for a schedule reduction to part time.
5. In November 2018, the claimant notified the employer that due to her school schedule she would not continue her assignment.
6. The claimant opened [a] claim for unemployment benefits with an effective date of November 18, 2018.

7. The claimant quit in order to attend school.
8. The employer had work available for the claimant.

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 supported by substantial and credible evidence in the record, except for the date noted in Finding of Fact # 5. We reject the "November 2018" date given in that finding. It was undisputed during the hearing that the claimant's job assignment began on July 9, 2018, as indicated in Finding of Fact # 2, and ended on January 22, 2019.¹

The review examiner's conclusion that the claimant is subject to disqualification under G.L. c. 151A, § 25(e)(1), is supported by substantial and credible evidence. The claimant reduced her scheduled from full-time to part-time and then quit her position due to her school schedule. Such a reason for quitting does not amount to good cause attributable to the employer or urgent, compelling, and necessitous reasons for quitting a job.

¹ The claimant's last date of work (her separation date) is undisputed. While not explicitly incorporated into the review examiner's findings, it is part of the unchallenged evidence introduced at the hearing and placed in the record, and it is thus properly referred to in our decision. For this reason, we need not remand the matter for the review examiner to render a specific finding on that issue. 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).

The review examiner's decision to disqualify the claimant from receiving benefits is affirmed. The date of the disqualification shall be changed from November 18, 2018, to January 20, 2019. The claimant is denied benefits the week beginning January 20, 2019, 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 – October 4, 2019



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

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