

The claimant's general and subjective dissatisfaction with the employer's temporary training requirement did not constitute good cause attributable to the employer for the claimant to resign.

**Board of Review
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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 unemployment benefits. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

The claimant resigned from her position with the employer on October 9, 2018. She filed a claim for unemployment benefits with the DUA, which was denied in a determination issued on April 30, 2019. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits attended by both parties, the review examiner affirmed the agency's initial determination and denied benefits in a decision rendered on March 26, 2020. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant voluntarily left employment without good cause attributable to the employer and, thus, was disqualified under G.L. c. 151A, § 25(e)(1). After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal, we remanded the case to the review examiner to make subsidiary findings from the record. Thereafter, the review examiner issued her consolidated findings of fact. Our decision is based upon our review of the entire record.

The issue before the Board is whether the review examiner's decision, which concluded that the claimant voluntarily left employment without good cause attributable to the employer, is supported by substantial and credible evidence and is free from error of law, where, after remand, the review examiner found that the claimant left her employment because she was unhappy with management and felt she was unable to fulfill her job requirements.

Findings of Fact

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

1. The claimant worked as the Sales Coordinator for the employer, a hotel, from 9/5/18 until she separated from the employer on 10/9/18.

2. The claimant was hired to work full-time, 40 hours a week, earning \$17.50 an hour.
3. The claimant filed a claim with an effective date of 12/2/18. When the claimant filed her claim, she completed a questionnaire in response to [a] request for information from the DUA. In the questionnaire dated 12/10/18, when asked what reason for quitting did you give this employer, the claimant responded communication issues, management contradicting themselves, each other and expectations for my position discussed at my interviews.
4. The claimant left work because she was unhappy with Management and felt she was not being [sic] able to fulfill her job requirements.
5. The claimant had started training at the front desk so she could learn the Standard Operations Procedures. The employer felt the claimant needed to know how to work at the front desk to be able to perform her job as the Sales Coordinator.
6. The Assistant General Manager was trying to train the claimant at the front desk. She felt the claimant was not taking the training seriously and wanted to perform tasks her way, not following the Assistant General Manager's directives. The claimant continually spoke about how she did things at previous jobs. The Assistant General Manager had told the claimant in order for her to be successful as a Sales Coordinator, she needed to train at the front desk. The claimant told the Assistant General Manager that she did not need to work the front desk. The claimant was resistant to any training the Assistant General Manager tried to give her. The claimant had asked the Assistant General Manager why she would hire someone with experience if she was not going to allow her to use her experience.
7. As her employment continued, the claimant was not spending a lot of time at the front desk training. The claimant was supposed to be trained by the Front Desk Manager and the prior Sales Coordinator; these employees informed the Assistant General Manager that [the] claimant did not want to learn the system.
8. The Assistant Manager had told the claimant that the work schedule for the Sales Coordinator position could be and will be flexible in the future, but to start, she would have to follow the training schedule. The training schedule began at 9 a.m.
9. The Assistant General Manager monitored and discussed the claimant's time with her each week, also informing her to leave work at certain times on Fridays to avoid overtime.
10. On 10/8/18, the General Manager spoke to the claimant about being late on two occasions – 9/14/18 and 10/4/18 – and instructed her that she needed to adhere to the training schedule of 9 a.m. The claimant was not reprimanded, and the

General Manager did not inform the claimant that her job was in jeopardy during his conversation with her.

11. The General Manager had also been watching the claimant's time. The General Manager told the Assistant General Manager to watch everyone's hours and informed her that he had spoken to the claimant about adhering to the training schedule that starts at 9 a.m.
12. On 10/9/18, the claimant asked to speak to the Assistant General Manager and the General Manager. The claimant told them that it was not working out and that she was giving her two-[weeks'] notice; however, she would only work out the rest of the week since she was only with the employer a short time. The General Manager told the claimant she would work as the Sales Coordinator from the front desk because she had not finished her training. The claimant became extremely upset telling him this is why she was not going to work there.
13. During this conversation, the claimant became aggressive, telling the General Manager he did not know how to handle a powerful woman and called him a little boy. Both the Assistant General Manager and the General Manager became nervous and asked the claimant to leave. The claimant swung the door open as she abruptly left the meeting, telling the Managers, "Go screw yourselves. I am better than this place."
14. Prior to leaving, the claimant had not received any warnings; her job was not in jeopardy. Before she left, the claimant did not request a leave of absence or a transfer, nor did she raise any concerns with the employer. The claimant did not reach out to Human Resources to voice her concerns prior to resigning, because her [sic] and her husband, after many discussions, felt Human Resources would not be an advocate for a new employee and would not side with her. She also did not reach out to Human Resources, because she did not want to be an antagonist by creating a lot of issues and cause resentment with the General Manager. A few days before 10/8/18, the claimant informed the General Manager that she wanted to let him know she had been a victim of domestic violence. The claimant did not inform the General Manager that she was forced to physically defend herself from her abuser.
15. After she left, the claimant sent a letter of her experiences with the employer to the employer on 10/13/18. The claimant did not submit the letter on her behalf, but instead on the behalf of other employees.
16. The claimant did not meet one on one with the General Manager on or around 9/17/18, so the General Manager could instruct her on his expectations.
17. The General Manager never punched his fist into his palm while telling the claimant about the various things that displeased him at work. The General Manager did not make repeated jokes asking the claimant to refrain from hitting other employees when the claimant was upset. He did pull the claimant aside

on one occasion and asked her to calm down. The claimant never told the General Manager that his joking bothered her. The General Manager never responded telling the claimant she should not be thin skinned, and she should get over it and not hold the General Manager accountable for others' actions.

18. During her employment, the claimant never experienced symptoms of PTSD as a result of her work environment. Prior to her employment with the instant employer, the claimant did not have a history of PTSD stemming from being the victim of domestic violence.

19. The claimant only sought treatment for PTSD 6 months after filing her claim on 12/2/18, after separating from the employer.

Credibility Assessment:

During the hearing, the claimant initially testified to her dissatisfaction with management and her frustrations throughout her employment with not being able to perform the requirements of her job as her reason for leaving. Although she subsequently brought forth a second argument and testified that she actually left due to PTSD resulting from her workplace, the claimant's testimony regarding PTSD is not credible and is given no weight. The claimant contended that because she had been having nightmares during her short period of employment with this employer, that the nightmares were a result of PTSD due to her experiences at the workplace. The employer's testimony denying the punching of his fist while meeting with the claimant on 9/17/18, and his contention that the claimant informed him without incident only a few days before her leaving that she was a victim of domestic violence, is deemed more credible given the fact that the claimant never informed the employer of any issues with PTSD during her employment and did not raise this issue until the end of the hearings. This is further supported by the fact that she never made any complaints to management during her employment about suffering from PTSD as a result of her employment. The claimant was never told her leaving was necessary. In fact, she testified that she did not seek treatment for PTSD until the spring of 2019, approximately 6 months after she left. In addition, when the claimant quit, she gave the employer a two weeks' notice. It defies logic that an individual who was suffering from PTSD as a result of her workplace would give a two-week notice before leaving. Given the facts and assessment of credibility, it is more likely that the claimant left her position due to her dissatisfaction with management, and her frustrations through her employment with not being able to perform the requirements of her job as she wanted to perform them.

Ruling of the Board

In accordance with our statutory obligation, we review the record and the decision made by the review examiner to determine: (1) whether the consolidated findings are supported by substantial and credible evidence; and (2) whether the review examiner's original conclusion is free from error of law. Upon such review, the Board adopts the review examiner's consolidated findings of fact

and deems them to be supported by substantial and credible evidence. We further believe that the review examiner's credibility assessment is reasonable in relation to the evidence presented. As discussed more fully below, we affirm the review examiner's legal conclusion that the claimant voluntarily left her employment without good cause attributable to the employer.

Since the claimant quit her employment, we analyze her eligibility for benefits under G.L. c. 151A, § 25(e)(1), which provides, in pertinent part, as follows:

[No waiting period shall be allowed and no benefits shall be paid to an individual under this chapter] . . . (e) For the period of unemployment next ensuing . . . after the individual has left work (1) voluntarily unless the employee establishes by substantial and credible evidence that he had good cause for leaving attributable to the employing unit or its agent

When a claimant asserts that she left employment due to wrongdoing on the employer's part, she bears the burden to prove that such wrongdoing amounted to good cause attributable to the employer for leaving. Crane v. Comm'r of Department of Employment and Training, 414 Mass. 658, 661 (1993). While a countless number of circumstances have been recognized to constitute good cause attributable to the employer, the unemployment law is clear that general and subjective dissatisfaction with working conditions does not provide good cause to leave employment under G.L. c. 151A, § 25(e)(1). Sohler v. Dir. of Division of Employment Security, 377 Mass. 785, 789 (1979).

During the hearings held in January, 2020, the claimant contended that she left her employment due to wrongdoing on the employer's part. She provided testimony on various incidents she purported occurred throughout her one-month employment. Since the review examiner failed to make findings on all of the incidents the claimant described, and she did not provide a credibility assessment clearly explaining whether or not she found the claimant's allegations credible, we remanded the case and asked the review examiner to make subsidiary findings from the record.

After remand, the review examiner found that the claimant left her employment because she was unhappy with management and felt she was unable to fulfill her job requirements. The review examiner also found that the claimant was resistant to the assistant general manager's training on the employer's procedures at the front desk. It was the employer's position that the claimant needed this training in order to successfully perform her job as the sales coordinator. The review examiner further found that the claimant was late to work on two occasions, and the employer had to remind her that she needed to adhere to the training schedule's set start time. Finally, the review examiner found that at no point did the general manager make jokes about the claimant hitting other employees, nor did he tell the claimant that she needed to stop being so thin-skinned. The review examiner arrived at these findings after making an adverse credibility determination against the claimant. Since that determination is not unreasonable in relation to the evidence presented, we will not disturb it on appeal. *See* School Committee of Brockton v. Massachusetts Commission Against Discrimination, 423 Mass. 7, 15 (1996).

The consolidated findings above do not establish that the claimant left her employment for good cause attributable to the employer. Rather, these findings show that the claimant was dissatisfied with the employer's requirement that she familiarize herself with the front desk procedures before

she could fully perform her role as the sales coordinator. It appears the claimant felt that the tasks she was being asked to perform during her training were below her skill-level and experience, and they were not what she expected at hire. However, there is nothing in the record to indicate that the employer's training requirement was unreasonable, or that it would prevent the claimant from fulfilling the duties of the job for which she was hired, the sales coordinator position. On the contrary, the employer made it clear to the claimant that the training was temporary and only in place for the claimant to learn the procedures specific to the employer's business, which was a necessary foundation for the claimant to successfully carry out the duties of the sales coordinator position. As stated above, such subjective dissatisfaction with the employer's training program does not provide good cause for the claimant to leave her employment.

Furthermore, prior to resigning, the claimant failed to take reasonable steps to preserve her employment, as she did not voice her concerns about her job duties to the human resources department or show that such action would have been futile. *See Guarino v. Dir. of Division of Employment Security*, 393 Mass. 89, 93–94 (1984).

We, therefore, conclude as a matter of law that the claimant voluntarily left employment without good cause attributable to the employer under G.L. c. 151A, § 25(e)(1).

The review examiner's decision is affirmed. The claimant is denied benefits for the week ending October 13, 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
Fitzgerald, Esq.
DATE OF DECISION - June 29, 2020



Paul T.

Chairman



Michael J. Albano
Member

Member Charlene A. Stawicki, Esq. did not participate in this decision.

**ANY FURTHER APPEAL WOULD BE TO A MASSACHUSETTS
STATE DISTRICT COURT
(See Section 42, Chapter 151A, General Laws Enclosed)**

The last day to appeal this decision to a Massachusetts District Court is ordinarily thirty days from the mail date on the first page of this decision. However, due to the current COVID-19 (coronavirus) pandemic, the 30-day appeal period does not begin until July 1, 2020¹. If the thirtieth day falls on a Saturday, Sunday, or legal holiday, the last day to appeal this decision is the next business day 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.

SVL/rh

¹ See Supreme Judicial Court's Second Updated Order Regarding Court Operations Under the Exigent Circumstances Created by the COVID-19 (CORONAVIRUS) Pandemic, dated 5-26-20.