

**Claimant did not have good cause attributable to the employer to quit when her supervisor informed her that she was angry and disappointed with the claimant over a work matter, and the claimant made no efforts to preserve her job before resigning. She is ineligible for benefits under G.L. c. 151A, § 25(e)(1).**

**Board of Review  
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**Issue ID: 0028 5822 08**

## **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 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 November 29, 2018. She filed a claim for unemployment benefits with the DUA, which was approved in a determination issued on January 23, 2019. The employer appealed the determination to the DUA hearings department. Following a hearing on the merits attended only by the employer, the review examiner overturned the agency's initial determination and denied benefits in a decision rendered on April 5, 2019. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant voluntarily left employment without either good cause attributable to the employer or urgent, compelling, and necessitous reasons 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 give the claimant an opportunity to testify and present other evidence. Both parties attended the remand hearing. 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 either good cause attributable to the employer or urgent, compelling, and necessitous reasons, is supported by substantial and credible evidence and is free from error of law.

### **Findings of Fact**

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

1. On January 23, 2017, the claimant started working for the employer, a health care facility, as a full-time Insurance Benefits Specialist.
2. The claimant was scheduled to work Monday through Friday from 7:30AM-4PM.
3. The claimant was paid \$19.00 per hour.
4. The claimant's supervisor was the Supervisor of Business Operations (hereinafter supervisor).
5. The claimant worked in the [A] Department for the employer.
6. The claimant's last date of work was on November 29, 2018. The claimant initially had no plans of resigning from her job on this date.
7. On November 29, 2018, the claimant's supervisor initiated a meeting with the claimant in the supervisor's office. The supervisor initiated the meeting regarding something that was going on with one of the members in connection with trying to get the member onto Mass Health.
8. During the November 29, 2018 meeting, the supervisor was angry towards the claimant. The supervisor was disappointed with the claimant. The supervisor informed the claimant that the supervisor was fed up with what was happening. The claimant became upset during the meeting due to the supervisor's behavior.
9. The claimant informed the supervisor that the claimant was not going to tolerate it. The claimant then provided the supervisor with a verbal resignation effective immediately. The claimant resigned in the spur of the moment.
10. In response to the resignation, the supervisor replied fine and got on the telephone.
11. The claimant then left the supervisor's office. The claimant did not slam the door while exiting the supervisor's office.
12. The claimant went back to her computer, shut her computer down and left the employer's establishment.
13. During the meeting, the supervisor did not harass the claimant. The supervisor did not yell or raise her voice at the claimant. During the meeting, the claimant did not yell or raise her voice.
14. The claimant would have kept working for the employer if the meeting with the supervisor did not occur on her last date of work.

15. Prior to quitting her job on November 29, 2018, the claimant made no attempts to preserve her job with the employer's establishment.
16. Prior to quitting, the claimant did not attempt to speak with the Director of Business Operations about her concerns regarding the supervisor's behavior during the November 29, 2018 meeting. The claimant thinks it would have helped to speak with the Director of Business Operations about her concerns, as the Director of Business Operations is very good at it.
17. The Director of Business Operations could have helped the claimant regarding her concerns of [sic] the November 29, 2018 meeting with the supervisor by deescalating the situation and investigating.
18. In the past, the claimant has complained to the Director of Business Operations regarding the supervisor, and the Director of Business Operations has helped. The Director of Operations has called meetings in the past with the claimant and the supervisor. Usually, the circumstances were just a misunderstanding.
19. In the past, the claimant had resigned and then subsequently recanted the resignation. On December 29, 2017, the claimant sent the Director of Business Operations an e-mail listing that the claimant was going to give a two week notice when the Director of Business Operations returned to the employer's establishment. On January 2, 2018, the claimant and the Director of Business Operations meet [sic]. During this meeting, the claimant explained that she had cooled off and recanted her resignation. The employer allowed the claimant to recant her resignation that time.
20. The claimant did not contact the employer's Human Resources Department prior to resigning on November 29, 2018. The claimant thinks the Human Resources Department may have been able to help the claimant.
21. The Director of Human Resources subsequently left a voicemail message for the claimant on November 29, 2018. The claimant eventually spoke with the Director of Human Resources on that day. The Director of Human Resources accepted the claimant's resignation. They agreed the claimant would go to the employer's establishment the following day to return items.
22. On November 29, 2018, the Director of Human Resources sent the claimant a letter writing in part: "As discussed, this letter is written confirmation that the [employer's name omitted] has accepted your verbal resignation as an Insurance Benefits Specialist in the [A] Department effective today (Exhibit 4A)."
23. On November 29, 2018, the claimant quit her job due to the supervisor acting in an angry manner towards the claimant during a meeting on that day.

24. On November 30, 2018, the claimant went to the employer's establishment to return items.

25. On December 28, 2018, the claimant filed an initial claim for unemployment insurance benefits (Exhibit 1).

### Ruling of the Board

In accordance with our statutory obligation, we review 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.

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 . . . [or] if such individual established to the satisfaction of the commissioner that his reasons for leaving were for such an urgent, compelling and necessitous nature as to make his separation involuntary.

The claimant has not alleged that she left her employment due to an urgent, compelling, and necessitous personal reason, and, therefore, the only issue before us is whether she resigned for good cause attributable to the employer, and whether she took reasonable steps to preserve her employment prior to resigning.

After listening to the claimant's testimony during the remand hearing, the review examiner found that the claimant resigned from her employment on November 29, 2018, because her supervisor acted in an angry manner toward the claimant during a meeting where they discussed a work matter. According to the claimant, the supervisor was disappointed with the claimant and fed up with the situation, but neither the supervisor nor the claimant yelled or even raised their voice during the meeting. The review examiner found that prior to verbally resigning on the 29<sup>th</sup>, the claimant did not attempt to speak to anyone in the human resources department or with the director of business operations, who had previously helped the claimant resolve any issues that she was having with her supervisor.

To determine whether the claimant has carried her burden to show that she had good cause to quit under the above-cited statute, we must first address whether the claimant had a reasonable workplace complaint. See Fergione v. Dir. of Division of Employment Security, 396 Mass. 281, 284 (1985). Here, the claimant has not established that her supervisor's behavior during that one meeting on November 29<sup>th</sup> was of such an egregious nature that it amounted to a reasonable workplace complaint. Additionally, the claimant did not establish that there was a pattern of

mistreatment from her supervisor that, when viewed as a whole, amounted to a reasonable workplace complaint.

Furthermore, even if we were to find that the claimant had such a complaint, that alone is insufficient to establish the claimant's eligibility for unemployment benefits. The Supreme Judicial Court has held that an employee who voluntarily leaves employment due to an employer's action has the burden to show that she made a reasonable attempt to correct the situation or that such attempt would have been futile. Guarino v. Dir. of Division of Employment Security, 393 Mass. 89, 93-94 (1984). Here, the claimant did not take reasonable steps to preserve her employment, as she resigned without speaking to the director or to the human resources department, and she did not establish that such efforts would have been futile.

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

The review examiner's decision is affirmed. The claimant is denied benefits for the week ending December 1, 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**  
**DATE OF DECISION - July 30, 2019**



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](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.

SVL/rh