

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

Issue ID: 0030 6997 34

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 for the week ending November 3, 2018. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On May 23, 2019, the agency initially determined that the claimant was not entitled to unemployment benefits for the week ending November 3, 2018. As a result of that determination, the claimant was found to be overpaid \$427.00 for the week ending November 10, 2018.¹ The claimant appealed, and only the claimant attended the hearing. In a decision rendered on August 9, 2019, the review examiner substantively affirmed the agency determination. In the decision, the review examiner concluded that the claimant was ineligible for benefits for the week ending November 3, 2018, pursuant to G.L. c. 151A, §§ 29 and 1(r), but eligible to receive benefits for the week ending November 10, 2018. The Board accepts the claimant's application for review.

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 Prior to the issuance of the May 23, 2019, determination, the week ending November 3, 2018, served as the claimant's wait week for her claim, effective February 25, 2018. See G.L. c. 151A, § 23(a). However, because the claimant was no longer eligible to receive benefits for the week ending November 3, 2018, the following week, the week ending November 10, 2018, needed to serve as the wait week. As the claimant had previously been paid benefits for that week, the claimant was overpaid for the week ending November 10, 2018.

The review examiner's decision is affirmed. The claimant is denied benefits for the period October 28, 2018, through November 3, 2018. Her disqualification shall be implemented in UI Online with a start date of October 28, 2018, and an end date of November 3, 2018. The claimant may receive benefits beginning November 4, 2018, if otherwise eligible. As noted in the review examiner's decision, she will not receive benefits for the week ending November 10, 2018, because that week will serve as the claimant's wait week pursuant to the provisions of G.L. c. 151A, § 23(a).

BOSTON, MASSACHUSETTS
DATE OF DECISION – September 18, 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