

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

Issue ID: 0031 3637 77

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), which found the claimant to be overpaid \$7,281.00. We review pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On July 25, 2019, the agency initially determined that the claimant was overpaid unemployment benefits due to inaccurate reporting of earnings during the benefit year of his claim, effective June 8, 2018. The DUA's Notice of Disqualification informed the claimant that he was not in unemployment for eight of the weeks at issue but was in partial unemployment for three weeks pursuant to G.L. c. 151A, §§ 29 and 1. The claimant appealed and only the claimant attended the hearing. In a decision rendered on October 8, 2019, the review examiner affirmed the agency determination pursuant to G.L. c. 151A, §§ 29 and 1. As a result, the overpayment remained unchanged at \$7,281.00. 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 findings of fact and conclusions are based on substantial evidence and are free from any error of law affecting substantive rights.

The claimant's appeal to the Board does not dispute the legal analysis used by the review examiner in her decision. He asserts, in fact, that he is prepared to re-pay the \$7,281.00 to the DUA. The appeal, however, indicates that the claimant was told by a DUA representative that interest has accrued on the overpayment amount, such that the total payoff now exceeds \$8,000.00. The issue of whether interest is charged on the balance of an overpayment relates to whether a claimant is at fault for such overpayment pursuant to G.L. c. 151A, § 69(a) and 430 CMR 4.21–4.24. We note that the DUA issued a "Redetermination Notice of Fault and Fraud Finding" to the claimant on October 8, 2019, under Issue ID # 0031 6909 38. In order to address the issue of the interest on the balance of the overpayment, the claimant must appeal that issue.

The review examiner's decision is affirmed.

BOSTON, MASSACHUSETTS
DATE OF DECISION – October 28, 2019



Charlene A. Stawicki, Esq.
Member



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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