

Although the employer was closed due to the COVID-19 pandemic, the claimant was unavailable for full-time work because she was in school. She is ineligible for benefits under G.L. c. 151A, §§ 29 and 1(r).

**Board of Review
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Member**

Issue ID: 0032 2939 78

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 during a period that she was not working between March and June, 2020. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On May 20, 2020, the agency initially determined that the claimant was not entitled to unemployment benefits. The claimant appealed and only the claimant attended the hearing. In a decision rendered on August 19, 2020, the review examiner affirmed the agency determination, concluding that the claimant was not in unemployment within the meaning of G.L. c. 151A, §§ 29 and 1(r), because her hours were reduced at her own request, and, thus, she was ineligible for benefits. 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. However, we clarify that the only relevant period of time is after the effective date of the claim, March 8, 2020. Although the record indicates that the employer was closed for a period due to the COVID-19 pandemic, the claimant is ineligible for benefits because she remained unavailable for full-time work while in school. In order to be eligible for benefits during a period of unemployment, G.L. c. 151A, §§ 29 and 1(r) require that a claimant be available for full-time work.

The review examiner's decision is affirmed. The claimant is denied benefits for the period March 8, 2020, through June 27, 2020.



BOSTON, MASSACHUSETTS

Paul T. Fitzgerald, Esq.
Chairman

DATE OF DECISION - September 30, 2020



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
(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.

AB/rh