

Board of Review
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Issue ID: 0032 4242 27

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 following his separation from military service on August 27, 2019. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On October 17, 2019, the agency initially determined that the claimant was not entitled to unemployment benefits. The claimant appealed and both parties attended the hearing. In a decision rendered on November 15, 2019, the review examiner affirmed the agency determination, concluding that the claimant was not eligible to receive unemployment benefits as an ex-service member pursuant to the provisions of 5 U.S.C. §§ 8521–8525.¹ 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 are based on substantial and credible evidence in the record and that the decision to deny benefits is free from any error of law affecting substantive rights.

The claimant is not eligible for benefits, because the reason for his military separation, as provided in Block 28 of his Form DD-214, is not an acceptable narrative reason for separation, per United States Department of Labor guidelines.² UIPL No. 9-10 provides the exhaustive list of acceptable narrative reasons, and the UIPL itself states that the listed reasons are the ones which will meet the requirements of 5 U.S.C. § 8521(a)(1)(B)(ii)(I) through (IV). The claimant’s narrative reason for separation, “failed medical/physical/procurement standards,” is not on the approved list of reasons. If the claimant believes that his Form DD-214 is incorrect, then he must contact the U.S. Army directly to request assistance.

The review examiner’s decision is affirmed. The claimant is denied benefits for the week beginning September 1, 2019, which is the effective date of the claimant’s unemployment claim.

¹ The review examiner also referenced U.S. Department of Labor Unemployment Insurance Program Letter (UIPL) No. 9-10 in his decision. UIPL No. 9-10 interprets applicable provisions of the United States Code.

² Because the claimant did not complete his first full term of service, his narrative reason for separation needs to be on the approved list. See 5 U.S.C. § 5821(a)(1)(B)(ii).

BOSTON, MASSACHUSETTS
DATE OF DECISION - December 3, 2019



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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

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