

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

Issue ID: 0033 4123 34

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 employment on January 4, 2020. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On February 5, 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 February 29, 2020, the review examiner affirmed the agency determination, concluding that the claimant voluntarily left employment without good cause attributable to the employer and, thus, was disqualified under G.L. c. 151A, § 25(e)(1). The Board accepted 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.

In affirming the review examiner's decision, we do, however, recognize a scrivener's error on her part. In Part III of her Decision, entitled "Conclusion & Reasoning", the review examiner states that the "claimant is subject to disqualification under Section 25(e)(1) of the Law." However, in Part IV entitled "Decision", the review examiner states that "the claimant is entitled to benefits under Section 25(e) of Law beginning January 5, 2020. . ." We believe this mistake constitutes a harmless error on the review examiner's part. This is because the review examiner correctly implemented her decision to disqualify the claimant benefits in the DUA's UI Online System. Consequently, the claimant was afforded the right to appeal the decision to this Board, which has reviewed and considered his appeal, as provided by statute. We also note that requiring the DUA to issue a corrected decision would compel the claimant to re-appeal the new decision to this Board before he could pursue his further appellate rights in the Massachusetts District Court. We do not believe that this is in the interest of judicial economy nor is it optimal given the circumstances of the COVID-19 (coronavirus) pandemic.

The review examiner's decision is affirmed. The claimant is denied benefits for the week beginning January 5, 2020, and for subsequent weeks, until such time as he has had at least eight weeks of work and has earned an amount equivalent to or in excess of eight times his weekly benefit amount.



Paul T.

BOSTON, MASSACHUSETTS

Fitzgerald, Esq.

DATE OF DECISION - April 14, 2020

Chairman



Charlene A. Stawicki, Esq.
Member



Michael J. Albano
Member

Member Charlene A. Stawicki, Esq. 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 ordinarily thirty days from the mail date on the first page of this decision. However, due to the current COVID-19 (coronavirus) pandemic, the 30-day appeal period does not begin until May 4, 2020¹. If the thirtieth day falls on a Saturday, Sunday, or legal holiday, the last day to appeal this decision is the next business day 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.

PTF/rh

¹ See Supreme Judicial Court's Order Regarding Court Operations Under the Exigent Circumstances Created by the COVID-19 (CORONAVIRUS) Pandemic, dated 4-1-20.