

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

Issue ID: 0057 7966 63

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 unemployment benefits on the ground that the claimant was not entitled to benefits during any week in which he worked full-time or had earnings that exceeded his weekly benefit amount plus earnings disregard. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On March 5, 2021, the agency initially determined that the claimant was not entitled to unemployment benefits. The claimant appealed and both parties participated in the hearing. In a decision rendered on February 2, 2022, the review examiner affirmed the agency determination, concluding that the claimant was not in unemployment and, thus, he was disqualified under G.L. c. 151A, §§ 29(a), 29(b) and 1(r). 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 to deny benefits beginning on April 12, 2020, is based on substantial evidence and is free from any error of law affecting substantive rights. However, the information contained in the DUA's UI Online System shows that the claimant's indefinite disqualification is no longer warranted. Specifically, we take administrative notice of the Lack of Work form submitted by the employer on December 22, 2020, which states that the claimant was separated from employment due to a lack of work on December 10, 2020. Based on the above, we are implementing an end date of December 5, 2020, to the claimant's disqualification in this matter. Accordingly, the claimant is entitled to unemployment benefits as of December 6, 2020, if otherwise eligible.

**BOSTON, MASSACHUSETTS
DATE OF DECISION - February 25, 2022**



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**

(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.

SVL/rh