

**Board of Review  
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Chairman  
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Member  
Michael J. Albano  
Member**

**Issue ID: 0061 1824 53**

### 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 her separation from employment on December 26, 2020. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On May 21, 2021, the agency initially determined that the claimant was not entitled to unemployment benefits. The claimant appealed, and both the claimant and the employer attended the hearing.<sup>1</sup> In a decision rendered on September 11, 2021, the review examiner affirmed the agency determination, concluding that the claimant caused the incident, which triggered the statutory impediment to her continued employment, and, thus, she was disqualified under G.L. c. 151A, § 25(e)(1).<sup>2</sup> 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.

We do note, however, that the review examiner included a partial sentence in the conclusions and reasoning section of his decision, which states, “pled guilty and was convicted of driving under the influence.” There is no basis for this statement, as nothing in the record suggests that the claimant was involved in a DUI incident, or that she pled guilty to criminal charges of any nature.

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<sup>1</sup> The employer participated as a witness only.

<sup>2</sup> See Olmeda v. Dir. of Division of Employment Security, 394 Mass. 1002 (1985) (rescript opinion) (the Court upheld the denial of unemployment benefits to a claimant who was unable to work, because his driver’s license was suspended for a year following a conviction for driving while intoxicated).

The review examiner's decision is affirmed. The claimant is denied benefits for the week beginning December 27, 2020, and for subsequent weeks, until such time as she has had at least eight weeks of work and has earned an amount equivalent to or in excess of eight times her weekly benefit amount.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - October 8, 2021**



Paul T. Fitzgerald, Esq.  
Chairman



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](http://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