

**Board of Review
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Member
Michael J. Albano
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Issue ID: 0063 2896 39

Introduction and Procedural History of this Appeal

The employer appeals a decision by a review examiner of the Department of Unemployment Assistance (DUA) to award the claimant benefits. We review, pursuant to our authority under G.L. c. 151A, § 41, and we affirm in part and reverse in part.

On June 17, 2021, the agency initially determined that the claimant was entitled to unemployment benefits. The employer appealed, and only the employer attended the hearing. In a decision rendered on December 23, 2022, the review examiner affirmed the agency determination, concluding that the claimant was placed on an indefinite suspension and, thus, was not disqualified under G.L. c. 151A, § 25(f). The Board accepted the employer'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 employer's appeal, we conclude that the review examiner's findings of fact and conclusions are supported by substantial and credible evidence and free from any error of law affecting substantive rights.

However, we note that, in Part IV of her decision, the review examiner concluded that the claimant was eligible for benefits as of the week beginning January 24, 2021, and indefinitely thereafter under the provisions of § 25(f). As the record and Finding of Fact # 7 both indicate the claimant separated from employment on February 3, 2021, his eligibility as of that date is governed by a different provision of law. Therefore, we reject the portion of the decision that concluded the claimant was indefinitely eligible for benefits under the provisions of § 25(f).

The review examiner's decision is affirmed in part and reversed in part. We affirm the overall conclusion by the review examiner that the claimant was entitled to benefits while suspended by the employer. However, the claimant's eligibility based on his suspension ended with his separation. He is entitled to receive benefits under G.L. c. 151A, § 25(f), only for the period between January 24, 2021, and January 30, 2021, if otherwise eligible.

BOSTON, MASSACHUSETTS
DATE OF DECISION - February 28, 2023



Paul T. Fitzgerald, Esq.
Chairman



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 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.

LSW/rh