

**Board of Review  
19 Staniford St., 4<sup>th</sup> Floor  
Boston, MA 02114  
Phone: 617-626-6400  
Fax: 617-727-5874**

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

**Issue ID: 0066 8747 70**

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. We review, pursuant to our authority under G.L. c. 151A, § 41, and we affirm in part and reverse in part.

On October 26, 2021, the agency initially determined that the claimant was entitled to unemployment benefits. The employer appealed, and both parties attended the hearing. In a decision rendered on January 10, 2023, the review examiner reversed the agency determination, concluding that the claimant was not in partial unemployment as of March 28, 2021, and, thus, was disqualified under G.L. c. 151A, §§ 29 and 1(r).

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.

However, we note that, in Part IV of her decision, the review examiner concluded that the claimant was indefinitely ineligible for benefits pursuant to §§ 29(a) and 1(r), beginning March 28, 2021. As the record provides that the claimant subsequently separated from employment on August 28, 2021, her eligibility as of that date is governed by a different section of G.L. c. 151A. Therefore, we reject the portion of the decision that disqualified the claimant indefinitely pursuant to §§ 29(a) and 1(r).

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 not in unemployment as of March 28, 2021. However, the claimant is denied benefits *only* during the period between March 28, 2021, and August 28, 2021.

**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](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.

LSW/rh