

**Board of Review
19 Staniford St., 4th 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: 0069 0498 30

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 in February, 2021. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On May 20, 2021, the agency initially determined that the claimant was not entitled to unemployment benefits. The claimant appealed and attended the hearing. In a decision rendered on October 7, 2021, the review examiner affirmed the agency determination, concluding that the claimant was not available for full-time work while in school, and, thus, he was disqualified under G.L. c. 151A, § 24(b). 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.

During the hearing, the claimant testified that he submitted an application for participation in the training opportunities program (TOP) two or three weeks before the hearing date of October 6, 2021. If he had been approved, he would have been exempt from the requirement to be available for and actively seeking full-time work while enrolled in an approved full-time training program. *See* G.L. c. 151A, § 24(c). The review examiner encouraged the claimant to contact the DUA, because, at the time, there was no record in the DUA's electronic database, UI Online, showing that the application was under review. We note that UI Online is still not showing that DUA's TOP Unit has received an application from the claimant.¹

If the claimant still wishes to apply for participation in the TOP program, he must download an updated TOP application from his UI Online account and mail the completed form to: MA DUA Scanning Department, 19 Staniford Street, Boston, MA 02114. Any questions should be directed to (617) 626-5521.

¹ The application uploaded into the appeal before us, Issue ID # 0069 0498 30, will not be considered by the TOP Unit.

The review examiner's decision is affirmed. The claimant is denied benefits for the week beginning March 7, 2021, and for subsequent weeks until such time as he meets the requirements of G.L. c. 151A.

BOSTON, MASSACHUSETTS
DATE OF DECISION - January 28, 2022



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.

AB/rh