

**Pursuant to G.L. c. 151A, § 71, the DUA did not have the authority to redetermine the claimant’s award of benefits under G.L. c. 151A, § 25(e). This is because the DUA’s Notice of Disqualification was issued more than a year after the claimant’s first benefit payment following his separation and was, therefore, time-barred under § 71. By not redetermining the claimant’s eligibility within one year, the DUA had effectively decided not to reconsider the award of benefits.**

**Board of Review  
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**Issue ID: 0069 1529 07**

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 unemployment benefits. We review, pursuant to our authority under G.L. c. 151A, § 41, and reverse.

The claimant separated from his position with the employer on June 12, 2020. He filed a claim for unemployment benefits with the DUA, effective March 15, 2020, and was initially awarded benefits. On June 17, 2021, the DUA issued a Notice of Disqualification in connection with his separation. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits, attended by both parties, the review examiner affirmed the agency’s initial determination and denied benefits in a decision rendered on May 20, 2023. We accepted the claimant’s application for review.

Benefits were denied after the review examiner determined that the claimant voluntarily left employment without good cause attributable to the employer or urgent, compelling, and necessitous reasons and, thus, was disqualified under G.L. c. 151A, § 25(e)(1). Our decision is based upon our review of the entire record, including the recorded testimony and evidence from the hearing, the review examiner’s decision, and the claimant’s appeal.

Ruling of the Board

We need not decide whether the review examiner’s decision to disqualify the claimant under G.L. c. 151A, § 25(e), was correct, because the Notice of Disqualification issued by the DUA on June 17, 2021, was time-barred by the provisions of G.L. c. 151A, § 71.

The unemployment statute imposes time limits on the DUA’s authority to redetermine eligibility for benefits. G.L. c. 151A, § 71, provides, in relevant part, as follows:

The commissioner may reconsider a determination whenever he finds that (1) an error has occurred in connection therewith; or (2) wages of the claimant pertinent to such determination but not considered in connection therewith have been newly

discovered; or (3) benefits have been allowed or denied or the amount of benefits fixed on the basis of misrepresentation of fact; provided, however, that with respect to (1) and (2) *no such redetermination shall be made after one year from the date of the original determination*; and provided, further, that with respect to (3) no such redetermination shall be made after four years from the date of the original determination . . .

The decision of the commissioner not to reconsider a decision shall be final and not subject to appeal under any provision of this chapter.

(Emphasis added.)

The DUA is prohibited from paying benefits without first determining that the claim is valid, including that the claimant separated for qualifying reasons. *See* G.L. c. 151A, §§ 25(e) and 39(a). The DUA's electronic database, UI Online, shows that the DUA issued its first payment under the claimant's 2020-01 claim on April 1, 2020. However, the claimant had not separated from the instant employer as of that date. The first payment the DUA issued following the claimant's separation on June 12, 2020, was a payment issued on June 16, 2020. With its payment on that date, the DUA is deemed to have determined that the claimant had separated from this employment under circumstances that were not disqualifying under G.L. c. 151A, § 25(e).

This means that the DUA's June 17, 2021, Notice was actually a redetermination. Since nothing in the record or UI Online indicates that the benefits the claimant received following his separation from the instant employer on June 12, 2020, were paid based upon a misrepresentation of fact, the DUA had one year within which it could redetermine whether the claimant was eligible for benefits. Here, the DUA's Notice was issued more than a year later. Pursuant to G.L. c. 151A, § 71, the agency did not have authority to do so.

We, therefore, conclude as a matter of law that the claimant may not be disqualified pursuant to G.L. c. 151A, § 25(e), because pursuant to G.L. c. 151A, § 71, the DUA did not have the authority to issue the June 17, 2021, redetermination of its initial award of benefits.

The review examiner's decision is reversed. The claimant is entitled to receive benefits for the period beginning June 7, 2020, and for subsequent weeks if otherwise eligible.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - July 21, 2023**



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](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