

Board of Review
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Issue ID: 0070 9670 20

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 February 25, 2022, 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 June 7, 2022, the review examiner affirmed the agency determination, concluding that the claimant was not able, available, and actively seeking work and, thus, was ineligible for benefits 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 to disqualify the claimant pursuant to G.L. c. 151A, § 24(b), is based on substantial evidence and is free from any error of law affecting substantive rights, as the record shows that the claimant was medically incapable of working.

Although we agree with the review examiner's decision that the claimant is not eligible for benefits under § 24(b), we disagree with the start date of claimant's disqualification. The review examiner disqualified the claimant from receiving benefits beginning January 3, 2021. However, the claimant did not become medically incapable of working until March 11, 2021.

The review examiner's decision is, therefore, affirmed in part and reversed in part. The claimant is entitled to benefits from January 3, 2021, until March 10, 2021, if otherwise eligible. The claimant is not entitled to receive benefits beginning March 11, 2021, and for subsequent weeks, until such time as she meets the requirement of G.L. c. 151A, § 24(b).

BOSTON, MASSACHUSETTS
DATE OF DECISION - May 11, 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.

DY/rh