

**As help desk team leader, the claimant's workload and stress significantly increased due to COVID-19. She regularly complained to her supervisor, but requests for additional staff were denied. The Board held her resignation was for good cause attributable to the employer, and she made reasonable preservation attempts before leaving. Held she was eligible for benefits pursuant to G.L. c. 151A, § 25(e)(1).**

**Board of Review  
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**Issue ID: 0074 1374 31**

### 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 resigned from her position with the employer on November 19, 2021. She filed a claim for unemployment benefits with the DUA, which was denied in a determination issued on March 5, 2022. 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 September 10, 2022. 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 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.

The issue before the Board is whether the review examiner's decision, which concluded that the claimant had good cause attributable to the employer to voluntarily quit employment due to a dramatic workload increase, but that she failed to adequately preserve her employment and thus she was ineligible for benefits, is supported by substantial and credible evidence and is free from error of law.

### Findings of Fact

The review examiner's findings of fact are set forth below in their entirety:

1. The claimant worked as a full-time help desk team leader for the employer from November 29, 2004, until her separation on November 19, 2021.

2. The employer is a human services organization which provides a range of services to community members.
3. The claimant's work responsibilities increased with the COVID-19 pandemic as many employees worked remotely and had additional computer hardware and software needs and issues.
4. The claimant supervised a team of 4 staff members.
5. The claimant experienced increased stress and anxiety due to supply-chain issues creating shortages of equipment and supplies.
6. The claimant met weekly with her supervisor, the vice president of information technology, regarding operational issues with whom she had a good relationship [sic] and had worked with for 17 years.
7. The claimant reported her increased stress and anxiety to the vice president of information technology "a few times" and requested additional staff to assist with the workload.
8. The claimant met on a weekly basis with a representative from the human resource department to review operational issues.
9. On November 5, 2021, the claimant submitted a resignation letter which did not include any reason for her decision.
10. The claimant's last day at work was November 19, 2021.
11. The claimant had personal health issues, including diabetes, which she did not report to the employer.
12. The claimant did not receive any medical treatment or advice as a result of her the stress and anxiety.
13. The claimant did not report any issues or difficulties to human resources as she was "too busy", did not believe it would help, and thought it would be "inappropriate."
14. The claimant did not request a leave of absence.
15. At the time the claimant quit her job, work was available to her.
16. At the time the claimant quit her job, her employment was not in jeopardy.
17. The claimant quit her employment on November 19, 2021, because of stress and anxiety associated with her work.

## Ruling of the Board

In accordance with our statutory obligation, we review the record and the decision made by the review examiner to determine: (1) whether the findings are supported by substantial and credible evidence; and (2) whether the review examiner's conclusion is free from error of law. Upon such review, the Board adopts the review examiner's findings of fact and deems them to be supported by substantial and credible evidence. However, as discussed more fully below, we reject the review examiner's legal conclusion that the claimant did not adequately preserve her employment prior to resigning.

Because the claimant quit her job, her eligibility for benefits is governed by G.L. c. 151A, § 25(e)(1), which provides, in pertinent part, as follows:

[No waiting period shall be allowed and no benefits shall be paid to an individual under this chapter] . . . (e) For the period of unemployment next ensuing . . . after the individual has left work (1) voluntarily unless the employee establishes by substantial and credible evidence that she had good cause for leaving attributable to the employing unit or its agent . . . .

By its express terms, this statutory provision places the burden on the claimant to show that she had good cause attributable to the employer to resign.

When a claimant contends that the separation was for good cause attributable to the employer, the focus is on the employer's conduct and not on the employee's personal reasons for leaving. Conlon v. Dir. of Division of Employment Security, 382 Mass. 19, 23 (1980). We must first address whether the claimant had a reasonable workplace complaint. *See* Fergione v. Dir. of Division of Employment Security, 396 Mass. 281, 284 (1985). If shown, the claimant has the further burden to show that she made a reasonable attempt to correct the situation or that such attempt would have been futile. Guarino v. Dir. of Division of Employment Security, 393 Mass. 89, 93–94 (1984). Here, the review examiner concluded that the claimant had a valid workplace complaint, but that she failed to adequately preserve her employment and thus was ineligible for benefits. We disagree.

In this case, the claimant's responsibilities as the help desk team lead increased due to the increased number of employees working remotely as a result of COVID-19. Findings of Fact ## 1 and 3. She testified that the number of laptops increased from 300 to 1000, that they received about 100 tickets a day, approximately 50 to 60 phone calls per day, and that they were falling behind in their work. We also note that the claimant stated that she ate her lunch in her car to avoid being interrupted with requests at her desk during her lunch break, and employees waited for her outside of the bathroom. However, despite her requests to her supervisor, he notified her that additional staff would not be provided.<sup>1</sup> We conclude, as the review examiner did, that the claimant had a valid workplace complaint.

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<sup>1</sup> While not explicitly incorporated into the review examiner's findings, the claimant's testimony in this regard is part of the unchallenged evidence introduced at the hearing and placed in the record, and it is thus properly referred

The next issue to address is whether the claimant made a reasonable attempt to preserve her employment prior to quitting. Here, the findings indicate that the claimant told her supervisor several times about the stress and anxiety from the work, and that she asked for additional staff to help with it. *See* Findings of Fact ## 5–7. But, as the review examiner notes in his decision, the supervisor was unpersuaded. She even tried eating her lunch in her car to avoid being interrupted, but that was not enough.

Although the claimant did not bring her concerns to human resources, it was not necessary that she do so in order to be eligible for benefits. *See* Finding of Fact # 13. In order to meet their burden, claimants are not required to exhaust all possible remedies available to them. They are merely required to act reasonably. A claimant must show reasonable efforts to preserve her employment before leaving her job — not that she had “no choice to do otherwise.” Norfolk County Retirement System v. Dir. of Department of Labor and Workforce Development, 66 Mass. App. Ct. 759, 766 (2006). We are satisfied that the claimant acted reasonably when she regularly brought her workload concerns to her supervisor and asked for additional staff, but nothing changed.

We, therefore, conclude as a matter of law that the claimant has met her burden to prove that she left her employment voluntarily for good cause attributable to the employer within the meaning of G.L. c. 151A, § 25(e)(1).

The review examiner’s decision is reversed. The claimant is entitled to receive benefits for the period beginning November 28, 2021, and for subsequent weeks if otherwise eligible.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - May 30, 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)**

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to in our decision today. *See* Bleich v. Maimonides School, 447 Mass. 38, 40 (2006); Allen of Michigan, Inc. v. Deputy Dir. of Department of Employment and Training, 64 Mass. App. Ct. 370, 371 (2005).

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.

MR/rh