

**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: 0074 2291 96

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 benefits for the week beginning November 28, 2021. We review, pursuant to our authority under G.L. c. 151A, § 41, and we affirm in part and reverse in part.

On December 20, 2021, the agency initially determined that the claimant was not entitled to unemployment benefits for the week beginning November 28, 2021. The claimant appealed and attended the hearing. In a decision rendered on May 17, 2022, the review examiner affirmed the agency determination, concluding that the claimant was not capable of, available for, or actively seeking full-time work during the relevant timeframe, and, thus, was disqualified under G.L. c. 151A, § 24(b). The Board accepted the claimant's application for review.

Ruling of the Board

As noted above, the review examiner disqualified the claimant on grounds that he was not capable of, available for, or actively seeking full-time work for the week beginning November 28, 2021. 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, pursuant to G.L. c. 151A, § 24(c), claimants who are ineligible for unemployment benefits under G.L. c. 151A, § 24(b), may nonetheless be entitled to a maximum of three (3) approved illness weeks in their benefit year under certain circumstances.

The review examiner found that the claimant was unable to work at all during the week beginning November 28, 2021. The findings do not indicate that the claimant was available for work or that he was offered any work at any time. We also note that there is no indication in the DUA's electronic record-keeping system, UI Online, that the claimant had been disqualified for benefits pursuant to any other provision of the law. Based on upon this information, the claimant was otherwise eligible for benefits. Consequently, the claimant was eligible for benefits while he was unable to work for medical reasons.

We, therefore, conclude as a matter of law that the claimant has not shown that he was able and available to work for the week beginning November 28, 2021, as required under G.L. c. 151A, § 24(b). We further conclude that, pursuant to G.L. c. 151A, § 24(c), the claimant is entitled to one (1) week of benefits due to illness.

The review examiner's decision is affirmed in part and reversed in part. The claimant is entitled to one (1) illness week of benefits for the week beginning November 28, 2021.



Paul T. Fitzgerald, Esq.
Chairman

BOSTON, MASSACHUSETTS
DATE OF DECISION - June 17, 2022



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.

JMO/rh