

**Board of Review  
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Chairman  
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Member  
Michael J. Albano  
Member**

**Issue ID: 0074 7372 09**

### 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 her separation from employment at the end of December, 2021. We review, pursuant to our authority under G.L. c. 151A, § 41, and we affirm in part and reverse in part.

On January 28, 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 May 5, 2022, the review examiner affirmed the agency determination, concluding that the claimant was not available for, or actively seeking, full-time work, and thus, she was disqualified pursuant to 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.

The claimant's hearing testimony supports the review examiner's conclusion that she was not actively seeking full-time work for a period of time following her separation from the employer, because she anticipated returning to work for that employer within a month or two. Additionally, her testimony that she was not available for full-time work while in school and participating in an internship during her spring semester supports the review examiner's conclusion that she was not available for full-time work during this semester. However, her undisputed testimony also indicates that she was both actively seeking and available for full-time work once the school semester ended, after the first week of May.<sup>1</sup> Therefore, we have placed an end date of May 7, 2022, on this disqualification.

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<sup>1</sup> We have supplemented the findings of fact, as necessary, with the unchallenged evidence before the review examiner. 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 review examiner's decision is affirmed in part and reversed in part. The claimant is denied benefits from January 2, 2022, through May 7, 2022. The claimant is entitled to benefits as of the week beginning May 8, 2022, and for subsequent weeks if otherwise eligible.



Paul T. Fitzgerald, Esq.  
Chairman

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - April 27, 2023**



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](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.

AB/rh