

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

Issue ID: 0075 6569 97

Introduction and Procedural History of this Appeal

The employer 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 affirm.

On March 26, 2022, the agency initially determined that the claimant was not entitled to unemployment benefits. The claimant appealed, and both parties attended the hearing. In a decision rendered on October 19, 2022, the review examiner affirmed in part and reversed in part the agency's determination. The review examiner affirmed the agency's determination that the claimant had been given reasonable assurance of re-employment in the next academic year, and, thus, G.L. c. 151A, § 28A, precluded the claimant from using his base period wages from the instant employer to establish a claim for benefits. The review examiner further determined the claimant was entitled to benefits based only on his wages from his other non-exempt base period employer.

Ruling of the Board

After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the employer'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. As the employer provided the claimant with reasonable assurance of re-employment for the subsequent academic year, the employer will not be charged for any benefits awarded to the claimant pursuant to his 2020-01 claim.

The review examiner's decision is affirmed. The claimant is entitled to a weekly benefit amount based only upon his earnings from his other base period employer, if he is otherwise eligible.



Paul T. Fitzgerald, Esq.
Chairman

BOSTON, MASSACHUSETTS
DATE OF DECISION - November 14, 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.

LW/rh