

**Board of Review  
19 Staniford St., 4<sup>th</sup> 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: 0078 0869 33**

### 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 her benefits. We review pursuant to our authority under G.L. c. 151A, § 41, and we affirm in part and reverse in part.

On August 25, 2022, the agency initially determined that the claimant was not entitled to unemployment benefits from the week beginning July 17, 2022, through August 20, 2022. The claimant appealed and attended the hearing. In a decision rendered on October 25, 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

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.

In the hearing decision, the review examiner found that the claimant was unable to work at all from the week beginning July 17, 2022, through August 20, 2022. The record does not indicate that the claimant declined any suitable work. We also note that the DUA's electronic record-keeping system, UI Online, shows that she had been approved for and paid benefits in prior weeks under her claim and there is no indication that the claimant had been otherwise disqualified for benefits for those weeks pursuant to any other provision of the law. This means that the claimant was otherwise eligible for benefits. Consequently, the claimant was eligible for illness week benefits while she was unable to work for medical reasons.

We, therefore, conclude as a matter of law that the claimant has not shown that she was able to work from the week beginning July 17, 2022, through August 20, 2022, 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 three (3) weeks of benefits due to illness.

The review examiner's decision is affirmed in part and reversed in part. The claimant is entitled to three (3) illness weeks of benefits for the weeks beginning July 17, 2022; July 24, 2022; and July 31, 2022. The claimant is not entitled to benefits during the period August 1, 2022, through August 20, 2022.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - November 21, 2022**



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](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.

JMO/rh