

**Although the claimant's separation from the employer was disqualifying under G.L. c. 151A, § 25(e)(1), the claimant is still eligible for benefits under this claim because she filed after separating from a subsequent employer. Since the claimant had at least eight weeks of work with another employer prior to filing her claim, the present employer was not an interested party.**

**Board of Review  
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**Issue ID: 0079 2399 39**

### 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 we affirm in part, and reverse in part.

The claimant separated from her position with the employer on December 2, 2022. She filed a claim for unemployment benefits with the DUA, which was denied in a determination issued on March 28, 2023. 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 May 5, 2023. 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 or urgent, compelling, and necessitous reasons 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 voluntarily separated without good cause attributable to the employer because she quit due to general dissatisfaction with a change in the employer's billing policy, 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 full-time for the instant employer, a substance abuse treatment company, as a community service representative from 2011 to December 2, 2022. The claimant was paid approximately \$30.00 per hour.

2. The claimant's duties included working in the community to obtain referrals of patients for the company's outpatient and inpatient treatment facilities.
3. Several years ago, the company merged with a national substance abuse treatment company, and over the years the two entities have been making changes to their systems and policies.
4. In the fall of 2022, the claimant's department implemented new computer software to track the referrals being made by the representatives. The claimant struggled to learn the system and found the philosophy of meeting referral goals not consistent with how she worked. The claimant also experienced a greater number of referrals of patients with private pay insurance receiving priority placement over patients with certain government insurance coverage. The claimant understood the need for the company to meet its earning goals, but she did not agree with the policy of prioritizing patients based on the revenue received from the insurance company instead of the treatment needs.
5. On several occasions the claimant spoke with her supervisor regarding her disagreement with the policy of the employer to prioritize certain types of insurance.
6. The claimant spoke with senior managers regarding her disagreement with the Company's revenue-related insurance policy. The managers gave the claimant advice on how to "stick to the script" and be successful in making the referrals the company wanted made to their facilities.
7. After speaking with several managers and supervisors, the claimant realized that the company was not going to change their policy.
8. On December 2, 2022, the claimant submitted a letter of resignation to her direct supervisor. The claimant explained that she would no longer be able to fulfill the needs of the position and felt that it would be best to resign. The claimant's resignation was effective immediately due to the confidential nature of her position; she did offer to help with her transition in any way possible.
9. At the time of separation, the claimant was not subject to disciplinary action.
10. Work was available for the claimant.

### 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 original 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. As discussed more fully below, while we agree that the review examiner correctly concluded that the claimant voluntarily separated from the

employer without good cause attributable to the employer and without urgent, compelling, and necessitous reasons under G.L. c. 151A, § 25(e)(1), we reject the review examiner's legal conclusion that the claimant is ineligible to receive benefits on this claim.

Under G.L. c. 151A, § 38(b), the DUA must give notice of a claim to the claimant's most recent employing unit and to such other employers as the DUA shall prescribe. The DUA has prescribed that interested party employers include those employers from whom the claimant became separated during the last eight weeks of employment prior to the effective date of her benefit year claim. Pursuant to this policy, a claimant's eligibility under G.L. c. 151A, § 25(e), will only be based upon her separation from interested party employers.

This policy is consistent with the eight-week disqualification period, which the Legislature embedded into G.L. c. 151A, § 25, which states:

[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 and until the individual has had at least eight weeks of work . . . after the individual has left work* (1) voluntarily unless the employee establishes by substantial and credible evidence that he had good cause for leaving attributable to the employing unit or its agent, (2) by discharge shown to the satisfaction of the commissioner by substantial and credible evidence to be attributable to . . . a knowing violation of a reasonable and uniformly enforced rule or policy of the employer, provided that such violation is not shown to be as a result of the employee's incompetence . . . .

(Emphasis added.)

Thus, an individual, who separates from a prior employer and immediately files an unemployment claim, may be disqualified under G.L. c. 151A, § 25(e)(1) or (2), depending upon the circumstances of that separation. However, what transpired with a former employer is not disqualifying, if that individual subsequently performs eight weeks of work for another employer and then files a claim. The DUA has no interest in the prior employer's separation because it has no bearing on whether the claimant is entitled to benefits under G.L. c. 151A, § 25.

Here, the DUA's electronic record-keeping system, UI Online, shows that the claimant filed her present claim for benefits with the DUA on February 7, 2023, with an effective date of February 5, 2023. As reflected in the findings of fact, this claim was filed more than nine weeks after the claimant's separation from the instant employer on December 2, 2022. UI Online records further confirm that the claimant worked for a new employer from December 12, 2022, until her separation from that employer on February 7, 2023. Since the claimant did not work for the instant employer during the last eight weeks of employment prior to opening her claim, the employer is not an interested party employer.

We, therefore, conclude as a matter of law that the claimant may not be disqualified from receiving benefits under this claim based upon her separation from the employer on December 2, 2022.

The portion of the review examiner's decision concluding that the claimant's separation from the employer was disqualifying pursuant to G.L. c. 151A, § 25(e)(1), is affirmed. The portion of the review examiner's decision concluding that the claimant is ineligible to receive benefits is reversed. The claimant is entitled to receive benefits for the week beginning February 5, 2023, and for subsequent weeks if otherwise eligible.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - July 21, 2023**



Paul T. Fitzgerald, Esq.  
Chairman



Charlene A. Stawicki, Esq.  
Member

Member Michael J. Albano 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.

LSW/rh