

Following a remand, the claimant presented authentic, updated documents showing the same spelling of his first name, his current address, and photo identification which resembled the person appearing at the hearing. Held he met his burden to verify his identity as the person who filed a claim, not an imposter.

**Board of Review
100 Cambridge Street, Suite 400
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: 0080 0184 97

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 reverse.

The claimant filed a claim for unemployment benefits with the DUA, effective April 23, 2023, which was denied in a determination issued on May 17, 2023. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits, the review examiner affirmed the agency's initial determination and denied benefits in a decision rendered on August 25, 2023. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant did not meet the filing and registration requirement to verify his identity as the person who filed this unemployment claim and, thus, he was disqualified under G.L. c. 151A, § 25(a). After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal, we remanded the case to the review examiner to consider additional, updated identifying documents. The claimant attended the remand hearing and, thereafter, the review examiner issued her consolidated findings of fact. Our decision is based upon our review of the entire record.

The issue before the Board is whether the review examiner's decision, which concluded that the claimant was ineligible for benefits due to a different address and spelling of his name on the original identifying documents, is supported by substantial and credible evidence and is free from error of law, where updated documents show a consistent spelling of the claimant's name and a current address.

Findings of Fact

The review examiner's consolidated findings of fact and credibility assessment are set forth below in their entirety:

1. The claimant filed a claim for unemployment benefits effective for April 23, 2023.

2. The Department of Unemployment Assistance (DUA) issued the claimant a Notice of Disqualification dated May 17, 2023, for failing without good cause to present proper identification, and therefore not meeting the filing and registration requirements.
3. Prior to March 2017, the claimant's first name was spelled with a "y" instead of an "i" on his Commonwealth of Massachusetts birth certificate.
4. In 2017, while applying for a United States of America Passport, the claimant applied for a new birth certificate.
5. On March 27, 2017, the claimant was issued his new birth certificate. The new birth certificate shows the claimant's birth date as January 27, 1988 and the spelling of his first name with an "i", instead of a "y".
6. Since receiving the birth certificate in March 2017, the claimant has been spelling his first name with an "i" instead of a "y".
7. The claimant no longer has his original birth certificate, nor does he have any document showing that he changed the spelling of his first name.
8. The claimant has a signed United States of America Passport which was issued on June 26, 2017, with expiration date June 25, 2027. The claimant's first name is spelled with an "i".
9. The claimant's Employer Wage Search screen in the DUA's EMT/record keeping system shows the claimant's first name being spelled with both "y" and "i".
10. The claimant's first name was spelled with a "y" from 2018 through 2019 in the EMT/record keeping system.
11. The claimant's first name is spelled with an "i" from 2020 through 2023 in the EMT/record keeping system.
12. The claimant has W-2's from both 2021 and 2022 with his Social Security number and the spelling of his first name with an "i".
13. The claimant has a Massachusetts driver's license which was issued on July 17, 2023, with expiration date January 27, 2025. The license shows the claimant's current address. The claimant's first name is spelled with an "i."
14. The claimant has a [Bank] credit card statement from July 2023, with his current address. The claimant's first name on the statement is spelled with a "y." The claimant's [Bank] account was opened in 2014 or 2015, before he started spelling his first name with an "i".

15. The claimant has a [City] water/wastewater bill dated August 1, 2023, which shows his current address. The claimant's first name is spelt with an "i".
16. The claimant has a Social Security Card issued by the Social Security Administration on August 29, 2023. The claimant's first name is spelled with a "i".
17. The pictures on the driver's license and the United States of America Passport were of the same person who participated during both hearings.
18. The identification documents that were submitted by the claimant are authentic.

Credibility Assessment:

In this case, the claimant presented a Commonwealth of Massachusetts birth certificate issued in 2017 with his first name spelt with an "i". The claimant also presented an unexpired United States of America Passport and an unexpired Massachusetts driver's license. The pictures on the driver's license and Passport were clearly of the same person who participated in both hearings. The claimant also had a Social Security card issued by the Social Security Administration on August 29, 2023, and W-2's for 2021 and 2022 with his Social Security number. Additionally, the claimant had proof of his current address. All the documents that were presented with the spelling of the claimant's name with "i" appear to be authentic and genuine.

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 consolidated findings are supported by substantial and credible evidence; and (2) whether the review examiner's conclusion is free from error of law. Upon such review, the Board adopts the review examiner's consolidated findings of fact and deems them to be supported by substantial and credible evidence. We further believe that the review examiner's credibility assessment is reasonable in relation to the evidence presented. Based upon the record after remand, we reject the review examiner's original legal conclusion that the claimant is ineligible for benefits, as outlined below.

G.L. c. 151A, § 25(a), provides, in relevant part, as follows:

No waiting period shall be allowed and no benefits shall be paid to an individual under this chapter for—(a) Any week in which he fails without good cause to comply with the registration and filing requirements of the commissioner.

In this case, the issue is whether the claimant has demonstrated that he is the person who filed a claim and not an imposter, who may have borrowed or stolen an identity to fraudulently collect unemployment benefits.

At the original hearing, the claimant presented documents showing spellings of his first name with both a “y” and an “i,” as well as different home addresses. We remanded to consider updated documents submitted with his Board appeal. After remand, the consolidated findings now provide that, for some reason, the claimant’s first name had been originally spelled with a “y” on his birth certificate. Consolidated Finding # 3. In fact, DUA records reveal that employers had reported wages under spellings with a “y” in 2018 and 2019. Consolidated Finding # 9. A credit card account opened in 2014 or 2015 also showed a first name spelled with a “y.” Consolidated Finding # 14.

Although not in the findings, the claimant explained that, when he went to apply for a U.S. passport in 2017, he could only get a birth certificate with the first name spelled with an “i.” For this reason, he eventually changed his name on all documents to the “i” spelling. *See Consolidated Findings ## 3–5.*¹

His current U.S. passport has his first name spelled with an “i,” as does his current Massachusetts driver’s license, Social Security Card, and water bill. *See Consolidated Findings ## 13, 15, and 16.* Moreover, DUA records show that, since 2020, employers have reported his wages with the “i” spelling. *See Consolidated Finding # 11.* These updated records now show the same spelling of his first name and contain the same address as was used to file his unemployment claim. Moreover, the review examiner has determined that they are authentic. *See Consolidated Finding # 18.* Importantly, the review examiner has also determined that the person appearing before her at the hearing resembled the person in the photographs on the picture I.D.s.

We, therefore, conclude as a matter of law that the claimant has met his burden to verify his identity. He has satisfied the registration and filing requirements for unemployment benefits, as required under G.L. c. 151A, § 25(a).

The review examiner’s decision is reversed. The claimant is entitled to receive benefits for the week beginning April 23, 2023, and for subsequent weeks if otherwise eligible.

BOSTON, MASSACHUSETTS
DATE OF DECISION - December 5, 2023



Paul T. Fitzgerald, Esq.
Chairman



Charlene A. Stawicki, Esq.
Member

Member Michael J. Albano did not participate in this decision.

¹ While not explicitly incorporated into the review examiner’s findings, the claimant’s testimony in this regard is part of the unchallenged evidence introduced at the hearing and placed in the record, and it is thus properly referred to in our decision today. *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).

**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.

AB/rh