

Where the claimant's medical condition of depressed bipolar I disorder made it difficult for her to perform her duties, she demonstrated urgent, compelling, and necessitous reasons to resign. She is eligible for benefits pursuant to G.L. c. 151A, § 25(e)(1).

Board of Review
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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 resigned from her position with the employer on May 2, 2023. She filed a claim for unemployment benefits with the DUA, effective June 18, 2023, which was denied in a determination issued on August 25, 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 October 18, 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). After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal, we afforded the parties an opportunity to submit written reasons for agreeing or disagreeing with the decision. Neither party responded. 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 voluntarily left employment without good cause attributable to the employer or urgent, compelling, and necessitous reasons, is supported by substantial and credible evidence and is free from error of law, where the review examiner found that the claimant's work environment exacerbated her medical condition, and she took several steps in an attempt to resolve the situation prior to quitting.

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 employer, a landscape construction company, as an accounts payable specialist from June 1, 2022, to January 6, 2023. The [claimant's] salary was \$66,000.00 per year.

2. The claimant was hired in June of 2022 for the position of accounts receivable specialist. The claimant had prior experience, and the position was responsible for payroll, payables, bank runs, among other duties. The claimant was initially trained in the position by the Office Manager.
3. The claimant testified that she was immediately overwhelmed with the job within the first month of work. The claimant spoke with the Chief Financial Officer (CFO) and was informed that she would receive additional training in areas she needed it.
4. The stress of the work exacerbated the claimant's existing mental health issues, and the claimant began to experience symptoms of migraine headaches, panic attacks, [and] lack of sleep shortly after starting with the employer.
5. In late July or early August of 2022, the CFO left the company. The claimant's workload increased due to the CFO's absence. The claimant informed the Office Manager that she was feeling overwhelmed, and the employer hired a temporary employee to help the claimant with the additional work. The claimant felt that the temporary employee added to her stress and was not helpful.
6. The employer hired an interim CFO. The claimant did not find the new CFO effective or responsive to her requests.
7. The claimant made several requests to the employer to hire a permanent CFO.
8. On or about the first week in January, 2023, the employer informed the claimant that they wanted to change their accounting processes and procedures. The additional stress of learning a new accounting system caused the claimant's anxiety disorder to heighten. The claimant was being treated with counseling and medication, but the symptoms of anxiety, panic attacks and sleeplessness were not being alleviated.
9. On January 11, 2023, the claimant notified the Office Manager via email that she was advised by her medical providers to take a medical leave of absence from work.
10. From January 12, 2023, to May 1, 2023, the claimant was out of work on an approved paid Family Medical Leave of Absence (FMLA) to treat her mental health issues.
11. The Office Manager took over the claimant's job duties for the time she was out on leave.
12. The claimant's FMLA leave benefits ended on May 1, 2023.

13. On May 2, 2023, the claimant informed the Office Manager that she would not be returning to her position, stating in an email that it was an unpleasant experience.

14. Work was available to the claimant at the time of her resignation.

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. However, as discussed more fully below, we reject the review examiner's legal conclusion that the claimant is ineligible for benefits.

Because the claimant quit her position, her eligibility for benefits is governed by G.L. c. 151A, § 25(e)(1), which provides, in pertinent part, as follows:

[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 . . . 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 . . . [or] if such individual established to the satisfaction of the commissioner that his reasons for leaving were for such an urgent, compelling and necessitous nature as to make his separation involuntary.

By its terms, the statute specifies that the claimant bears the burden to show that she is eligible for unemployment benefits.

When, as here, a claimant contends that the separation was for good cause attributable to the employer, the focus is on the employer's conduct and not on the employee's personal reasons for leaving. *See Conlon v. Dir. of Division of Employment Security*, 382 Mass. 19, 23 (1980). The claimant testified that prior to quitting, the employer increased her workload and required that she learn a new accounting system. Findings of Fact ## 5 and 8. The findings, however, fail to show that the changes implemented by the employer were unreasonable. After the employer changed to its new accounting system and increased the claimant's duties, she began a leave of absence. During this time, the office manager took over the claimant's duties, presumably in addition to her own, while also learning the new accounting system. This indicates that the work assigned to the claimant was not an unreasonable amount. Findings of Fact ## 8 and 11. Thus, we agree that the claimant has not shown good cause attributable to the employer to resign. However, the evidence does establish that the claimant quit for urgent, compelling, and necessitous reasons.

Our standard for determining whether a claimant's reasons for leaving work are urgent, compelling, and necessitous has been set forth by the Supreme Judicial Court. We must examine the circumstances in each case and evaluate "the strength and effect of the compulsive pressure of external and objective forces" on the claimant to ascertain whether the claimant "acted reasonably,

based on pressing circumstances, in leaving employment.” Reep v. Comm’r of Department of Employment and Training, 412 Mass. 845, 848, 851 (1992).

“[A] ‘wide variety of personal circumstances’ have been recognized as constituting ‘urgent, compelling and necessitous’ reasons under” G.L. c. 151A, § 25(e), “which may render involuntary a claimant’s departure from work.” Norfolk County Retirement System v. Dir. of Department of Labor and Workforce Development, 66 Mass. App. Ct. 759, 765 (2009), *quoting* Reep, 412 Mass. at 847 (1992). Medical conditions are recognized as one such reason. *See* Dohoney v. Dir. of Division of Employment Security, 377 Mass. 333, 335–336 (1979) (pregnancy or a pregnancy-related disability, not unlike other disabilities, may legitimately require involuntary departure from work).

The claimant presented a letter from her medical provider, dated January 16, 2023, documenting that she has depressed bipolar I disorder, and the review examiner found that her work duties exacerbated her mental health issues. *See* Finding of Fact # 4 and Exhibit # 5.¹ Together, this evidence establishes urgent, compelling, and necessitous reasons for the claimant to leave her job.

However, our inquiry does not stop here. “Prominent among the factors that will often figure in the mix when the agency determines whether a claimant’s personal reasons for leaving a job are so compelling as to make the departure involuntary is whether the claimant had taken such ‘reasonable means to preserve her employment’ as would indicate the claimant’s ‘desire and willingness to continue her employment.’” Norfolk County Retirement System, 66 Mass. App. Ct. at 766, *quoting* Raytheon Co. v. Dir. of Division of Employment Security, 364 Mass. 593, 597–98 (1974).

In an attempt to alleviate the symptoms stemming from her job’s effect on her medical condition, including migraines and panic attacks, the claimant informed the employer that she was overwhelmed and asked for help with her increased workload. Findings of Fact ## 4 and 5. The employer hired a temporary employee to help the claimant, but the claimant found that the temporary employee was not helpful and instead added to the claimant’s stress. Finding of Fact # 5. The claimant also sought assistance from the interim Chief Financial Officer, but he was unresponsive to her requests. Finding of Fact # 6. When the claimant’s medical condition worsened as a result of the additional stress of having to learn a new accounting system, the claimant sought and was approved for a leave of absence beginning on January 12, 2023. Findings of Fact ## 8–10. When her leave of absence ended on May 1, 2023, however, she resigned rather than return to the same work environment. Findings of Fact ## 12–13.

The review examiner denied benefits after concluding that the claimant did not make any effort to preserve her employment prior to resigning. We disagree. We believe that the claimant’s requests for assistance from the employer and her request for a leave of absence show her willingness to continue her employment, as she took the leave with the hope of alleviating her symptoms, presumably to be able to eventually continue with her work. Findings of Fact ## 8–9. Further, the claimant’s decision to quit instead of taking further steps to preserve her employment was

¹ While not explicitly incorporated into the review examiner’s findings, this exhibit 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).

reasonable, as she felt overwhelmed with her position shortly after starting, before she even received additional work duties or was required to learn a new accounting system, and there is no indication in the record that the nature of the claimant's job would change in such a way that it would cease to stress and overwhelm her. *See* Findings of Fact # 3, 5, and 8.

We, therefore, conclude as a matter of law that the claimant has met her burden to show that she involuntarily resigned from the employer due to urgent, compelling, and necessitous circumstances, and she is eligible for benefits pursuant to G.L. c. 151A, § 25(e)(1).

The review examiner's decision is reversed. The claimant is entitled to receive benefits for the week beginning June 18, 2023, and for subsequent weeks if otherwise eligible.

BOSTON, MASSACHUSETTS
DATE OF DECISION - July 31, 2024



Charlene A. Stawicki, Esq.
Member



Michael J. Albano
Member

Chairman Paul T. Fitzgerald, 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.

SVL/rh