

**Medical assistant resigned after accepting a job offer from a new employer. As the offer detailed information, such as the claimant's wages and schedule, it was a *bona fide* offer of employment. The new employer later withdrew its offer of employment because it decided to seek the services of a nursing home instead of an individual and, therefore, no longer had work for the claimant. Held the claimant left in good faith to accept new permanent, full-time employment and became separated for good cause attributable to the new employing unit within the meaning of G.L. c. 151A, § 25(e).**

**Board of Review  
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**Issue ID: 0081 4536 83**

### 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 August 29, 2023. She filed a claim for unemployment benefits with the DUA, effective October 29, 2023, which was denied in a determination issued on November 17, 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 February 24, 2024. 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 remanded the case to the review examiner to obtain additional information pertaining to the claimant's offer of new employment. Both parties attended the remand hearing. 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 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 claimant gave notice to the instant employer after she was offered new employment.

### Findings of Fact

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

1. The claimant worked as a Lead Medical Assistant for the employer, a hospital, from 3/21/23 until she separated from the employer on 8/29/23.
2. The claimant worked full-time, 40 hours a week, earning \$29.11 an hour.
3. The claimant had left work with no reason given to the employer.
4. In June of 2023, an employee had left her purse and pillow on the claimant's desk. There was a doctor touring the office, so the claimant moved the items from her desk to the other employee's desk. The employee complained to the claimant's supervisor and said the claimant was touching her personal stuff. The claimant became upset.
5. On 6/10/23, while the other employee was out on leave, there was a meeting. The claimant was asked if there was anything she would like to say at the meeting, and she declined to say anything because she was concerned she would get in trouble due to the prior incident with the employee. The claimant was brought into the office by her supervisor and was told it was not right that she did not speak at all at the meeting.
6. The claimant continued to work. On or about 6/16/23, the supervisor had left work for the day. There were specimens being sent out by the medical assistants without labels. The claimant decided to throw out a container that held the specimens until they were labeled and placed in [the] specimen box and informed the medical assistants that they needed to label the specimen right away before putting in the specimen box because she was eliminating the container that initially held them.
7. The medical assistants became upset. That next day, the claimant was informed by her supervisor that she should not make decisions like that unless she spoke to her first because it was better to get another opinion before she made any changes.
8. On another occasion, while working with a coworker who was training her, the claimant became anxious[.] [S]he asked the coworker if they could stop the training and continue it in a few days. The claimant was subsequently told by her supervisor that she could not change the dates the coworker was training her.
9. On 7/25/23, while in a meeting with her supervisor, the claimant became anxious. The claimant told her supervisor she did not want to continue the conversation. The supervisor got upset and the claimant stated she was not going to continue now and started crying. The claimant suffers with PTSD due to prior domestic violence, which the employer was not aware of. After this incident, the claimant decided to look for another job.

10. On 8/4/23, while working, a doctor had given her verbal orders to give a patient a vaccine. The claimant believed he had instructed her to give the patient a TB shot but he had instructed her to give the patient a Tdap vaccine. The claimant was issued a written warning for giving a vaccine without a written order from the doctor against hospital policy.
11. On 8/10/23, the claimant was offered new full-time employment as a PCA by an individual named [Client]. At the time of the offer, the employer did not give the claimant a start date. She was told she would earn \$30.00 an hour and that her schedule would be from 9:00 a.m. to 5:00 p.m. and 8:00 a.m. to 4:00 p.m. on some days. The employment offered was for permanent employment.
12. On 8/16/23, the claimant informed her supervisor that she was giving her two-week notice with an end date of 8/29/23. On 8/16/24, at approximately 7:00 or 7:30 p.m., the claimant was informed by the new employer that the PCA job was no longer available. She was told they were going a different route with their mother and did not need her to care for her anymore. They informed the claimant they planned to place their mother in a nursing home.
13. On 8/17/23, the claimant reached out to her supervisor and told her she was considering staying in her position and wanted to withdraw her 2-week resignation.
14. The supervisor told the claimant it was best if she completed her two-week notice.
15. The claimant had attempted to submit her resignation several times before in July and August but decided ultimately not to quit. The claimant decided to give her notice and quit on 8/16/23 due to the concerns she was having in the office, not because she had received an offer of new employment.
16. Prior to her quitting, the claimant never requested a leave of absence or a request to transfer to another location. She never reached out to Human Resources or her supervisor to raise any issues before she quit.

### 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. After such review, the Board adopts the review examiner's consolidated findings of fact except as follows. Based on the totality of the claimant's testimony and the Consolidated Findings, we reject the portion of Consolidated Finding # 15 which states that the claimant decided to leave her employment due to concerns with the office and not because she had an offer of new employment. In adopting the remaining findings, we deem them to be supported by substantial and credible evidence. However, we reject the review examiner's legal conclusion that the claimant is ineligible for benefits.

When a claimant voluntarily leaves her employment, we consider her eligibility for benefits pursuant to G.L. c. 151A, § 25(e)(1), which provides, in relevant 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 . . . .

After remand, the review examiner found that the claimant resigned her position with the instant employer due to concerns with her employment. Consolidated Finding # 15. We reject this finding based on the totality of the claimant's testimony and the sequence of events surrounding the end of her employment. During the remand hearing, the claimant stated that she gave notice due to the issues that she was having with the employer. However, during the initial hearing, she testified that she would not have submitted her resignation had she not received an offer of new employment.<sup>1</sup> Further, once the new employment offer was withdrawn, the claimant attempted to rescind her resignation from the instant employer. *See* Consolidated Findings ## 12–13. Because the claimant only submitted her notice to the instant employer when she was offered new employment, and she attempted to rescind her resignation once the new employment offer was withdrawn, we conclude that the primary reason that the claimant quit was because she had received a new job offer.

In light of the above, there is no basis to conclude that the claimant left her employment for good cause attributable to the employer within the meaning of G.L. c. 151A, § 25(e)(1). Rather, we consider her eligibility for benefits based on the third paragraph of G.L. c. 151A, § 25(e), which states, in relevant part, as follows:

No disqualification shall be imposed if such individual establishes to the satisfaction of the commissioner that he left his employment in good faith to accept new employment on a permanent full-time basis, and that he became separated from such new employment for good cause attributable to the new employing unit.

By its express terms, this section of law places the burden of proof upon the claimant.

The first question is whether the claimant showed that, at the time that she gave notice to the employer, she had a *bona fide* offer of new permanent, full-time employment, as opposed to the mere prospect of new employment. To meet the burden of proof, we have required claimants to show that the new employer conveyed enough detailed information about the new employment such as to create a good faith belief that it intended to hire the claimant for a specific job.

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<sup>1</sup> We have supplemented the findings of fact, as necessary, with the unchallenged evidence before the review examiner. 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).

The review examiner found that, prior to giving notice to the instant employer on August 16, 2023, the claimant had received an offer of permanent, full-time employment as a PCA (Personal Care Attendant) that paid \$30.00 per hour. Consolidated Findings ## 11–12. The claimant’s schedule would generally be from 9:00 a.m. to 5:00 p.m. and on certain days from 8:00 a.m. to 4:00 p.m. Consolidated Finding # 11. Further, although the claimant testified that she did not discuss a specific start date with the new employer, they did agree that she would start after she completed her two weeks’ notice with the instant employer. Consolidated Finding # 11.<sup>2</sup> We believe that detailed information and particulars about the job offer provided to the claimant reasonably created a good faith belief on her part that the new employer intended to hire her. *See* Board of Review Decision 0021 9411 85 (Dec. 19, 2017) (a *bona fide* job offer had been made to the claimant, as she had been told the individual partners that she would be working for, the number of hours she would work, and the salary that she would be paid). Absent evidence that there were contingencies attached to the offer that the claimant was unable to satisfy, and we see none, we are satisfied that the claimant resigned her position with the instant employer in good faith to accept new employment on a permanent, full-time basis.

Finally, we consider whether the claimant separated from her new employer for good cause attributable to the new employing unit. Although the relevant part of G.L. c. 151A, § 25(e), specifically references separation “for good cause attributable to the new employing unit,” we note that the DUA has enunciated a more expansive definition for how to apply this provision of the statute:

Under § 25(e), a claimant is not disqualified if the claimant establishes that he left his employment in good faith to accept new employment on a permanent full-time basis, and that he became separated from such new employment *under non-disqualifying circumstances*.

*See* Division of Unemployment Assistance Adjudication Handbook, Ch. 7, § 9 (emphasis added). The Board has deferred to the DUA’s interpretation of this provision. *See* Board of Review Decision 0067 3510 13 (Dec. 22, 2023). *See also* Connolly v. Dir. of Division of Unemployment Assistance, 460 Mass. 24 (2011) (the purpose of the unemployment statute is to provide temporary relief to persons who are out of work and unable to secure work through no fault of their own) (further citations omitted).

In the present case, the new employer withdrew its offer of employment after the claimant submitted her resignation to the instant employer. Consolidated Finding # 12. The offer was withdrawn because the new employer decided to seek the services of a nursing home instead of an individual and, therefore, no longer had work for the claimant. *See id.* Thus, the new employer did not withdraw its employment offer based on actions taken or decisions made by the claimant, and the separation does not disqualify the claimant from receiving benefits.

We, therefore, conclude as a matter of law that the claimant has satisfied her burden to show that she left her employment in good faith to accept new employment on a permanent, full-time basis, and that the new employer withdrew its employment offer for good cause attributable to the

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<sup>2</sup> This portion of the claimant’s testimony is also part of the unchallenged evidence in the record.

employing unit, as meant under G.L. c. 151A, § 25(e). In addition, we note that, pursuant to 430 CMR 5.05(4), the employer shall not be charged for the claimant's benefits.

The review examiner's decision is reversed. The claimant is entitled to receive benefits for the week beginning August 27, 2023, and for subsequent weeks if otherwise eligible.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - September 20, 2024**



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.

SVL/rh