

**The claimant resigned after accepting a verbal offer of employment from a new company. As the offer detailed the claimant's position, job duties, salary, and start date, it was a *bona fide* offer of employment. The new employer later rescinded the offer without explanation. 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 pursuant to G.L. c. 151A, § 25(e).**

**Board of Review  
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Chairman  
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**Issue ID: 0081 5524 37**

### 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 separated from his position with the employer on October 28, 2023. He filed a claim for unemployment benefits with the DUA, effective October 29, 2023, which was denied in a determination issued on December 27, 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 March 8, 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 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 did not resign to accept a *bona fide* offer of new employment because his new employer had not provided him with a start date for his new job at the time he resigned, 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. Prior to filing for benefits, the claimant worked as a customer experience specialist for the instant employer, a bank (ER-I). The claimant began working

for the employer on 11/15/2021. He worked a full-time schedule and earned approximately \$20.00 per hour plus \$150.00 for Saturdays.

2. The claimant's supervisor was ER-I's customer experience manager.
3. In or about June 2023, the claimant began having issues with a coworker at ER-I.
4. In or about June 2023, the claimant spoke to ER-I's human resources representative about his issues with the co-worker.
5. In or about August 2023, the coworker separated from ER-I.
6. In or about August 2023, the claimant perceived that his relationship with ER-I's senior vice president worsened because he consulted ER-I's human resources representative about his concerns with the coworker.
7. In August 2023, the claimant began looking for new work.
8. On 8/14/2023, ER-I transferred the claimant to a different branch for the claimant to learn from the customer experience manager at the branch.
9. On 9/6/2023, the claimant has a first job interview with a different financial institution (ER-II).
10. On 9/15/2023, the claimant had a second interview with ER-II.
11. On 9/16/2023, ER-II's human resources representative verbally offered the claimant a full-time, permanent position as a banking center specialist, working slightly more hours and earning \$21.00 per hour. ER-II's human resources representative advised the claimant that his training for the new position would begin in the beginning of October 2023. The claimant accepted the new position.
12. On 9/18/2023, the claimant provided verbal notice of his resignation to the supervisor and the employer's senior vice president, stating he was leaving for new work. The employer's senior vice president asked the claimant to put his resignation in writing.
13. On 9/20/2023, the claimant provided the employer with his written notice of resignation, effective 9/30/2023.
14. At the end of September 2023, ER-II's human resources representative sent the claimant an email pushing his start date to the end of October 2023.
15. On 9/27/2023, the claimant emailed ER-I asking to extend the effective date of his resignation to 10/28/2023. ER-I approved the new effective date.

16. ER-I hired two new employees on 10/2/2023 and 10/5/2023 to address ER-I's staffing needs in anticipation of the claimant's separation.
17. On 10/19/2023, ER-II's human resources representative emailed the claimant stating that the new position was no longer available.
18. On 10/19/2023, the claimant texted ER-I's supervisor asking to rescind his resignation.
19. On 10/19/2023, the claimant emailed ER-I's human resources director and ER-I's senior vice president asking to rescind his resignation.
20. On 10/19/2023, ER-I's human resources director replied in relevant part "We have already accepted your resignation so that status will stand with your last day of work remaining as 10/28/23".
21. The claimant last performed work for ER-I on 10/19/2023.
22. On 10/20/2023, the claimant called out from ER-I.
23. On 10/20/2023, ER-I determined that the claimant would be calling out the remainder of the week and that ER-I would need to reevaluate staffing.
24. On 10/20/2023, ER-I's first vice president and human resources director contacted the claimant and advised him that he would be paid through the effective date of his resignation but did not need to come into work.
25. ER-I paid the claimant's full wages through the effective date of his resignation.
26. The claimant initiated his separation from ER-I.
27. The claimant's job with ER-I was not in jeopardy at the time of his resignation.
28. On 12/27/2023, the Department of Unemployment Assistance (DUA) issued a Notice of Disqualification to the claimant. The claimant appealed that determination.

### 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 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 not entitled to benefits.

When a claimant voluntarily leaves his employment, we consider his 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 . . . .

The claimant testified that he resigned his position with the instant employer to accept a new offer of work. Findings of Fact ## 12 and 13. Therefore, there is no basis to conclude that the claimant left his employment for good cause attributable to the employer within the meaning of G.L. c. 151A, § 25(e)(1). Rather, based on the claimant's assertions, we consider his eligibility for benefits based on the third paragraph under 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 to show that he left his employment in good faith to accept new employment.

The first question is whether the claimant showed that, at the time that the claimant gave notice to the employer, he 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.

The review examiner concluded that the claimant did not have a *bona fide* offer of employment, because he did not have a set start date for his new job. However, she also found that, when the new employer's human resources representative offered the claimant the job, she informed him that he was expected to start his job at the beginning of October, 2023. Finding of Fact # 11. Acting on the start date articulated in this offer, the claimant provided the instant employer with written notice of his resignation on September 20, 2023, effective September 30, 2023. Finding of Fact # 13. While the new employer did delay the claimant's start date by a month, it did not inform him of this delay until a week after he submitted his resignation to the instant employer. Findings of Fact ## 13 and 14. Therefore, the review examiners Findings of Fact confirm that, at the time he resigned his position with the instant employer, the claimant had been provided with a specific start time for his new job.

In addition to identifying when the claimant would start, the offer that he accepted also specified his new job title, duties, schedule, and wages. Finding of Fact # 11. This type of detailed information is consistent with job offers made to claimants in other appeals before the Board, where we concluded that such particulars about the new position could reasonably create a good faith belief that the new employer intended to hire them. 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 his position with the instant employer in good faith to accept new employment on a permanent, full-time basis.

Finally, the record shows that the claimant lost this new job through no fault of his own. *See 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). After first delaying the claimant's start date, the new employer's human resources representative emailed the claimant to inform him that the position he was offered was no longer available. Finding of Fact # 17. The claimant attempted to contact the human resources representative to ascertain why the new employer was retracting its offer but never received a response.<sup>1</sup> Moreover, we found no evidence in the record indicating that the new employer rescinded its offer based on actions taken or decisions made by the claimant.

As in prior cases, where a new employer's offer for permanent, full-time work was rescinded through no fault of the claimant, we believe the circumstances meet the intent of the above statutory provision. *See, e.g.*, Board of Review Decision 0025 1670 85 (Nov. 16, 2018).

We, therefore, conclude as a matter of law that the claimant has satisfied his burden to show 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 pursuant to G.L. c. 151A, § 25(e).

The review examiner's decision is reversed. The claimant is entitled to receive benefits for the week of October 29, 2023, and for subsequent weeks if otherwise eligible.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - April 26, 2024**



Charlene A. Stawicki, Esq.  
Member



Michael J. Albano  
Member

Chairman Paul T. Fitzgerald, Esq. did not participate in this decision.

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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).

**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