

**The claimant did not have an urgent, compelling and necessitous reason to leave his employment when he traveled to Morocco to take care of financial matters related to his family's businesses and land. Moreover, prior to leaving, he failed to take any steps to preserve his employment. Held he is ineligible for benefits pursuant to G.L. c. 151A, § 25(e)(1).**

**Board of Review  
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**Issue ID: 0081 8504 78**

### Introduction and Procedural History of this Appeal

The employer appeals a decision by a review examiner of the Department of Unemployment Assistance (DUA) to award unemployment benefits. We review, pursuant to our authority under G.L. c. 151A, § 41, and reverse.

The claimant resigned from his position with the employer on June 14, 2023. He filed a claim for unemployment benefits with the DUA, effective December 31, 2023, which was denied in a determination issued on February 2, 2024. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits attended only by the claimant, the review examiner overturned the agency's initial determination and awarded benefits in a decision rendered on May 9, 2024. We accepted the employer's application for review.

Benefits were awarded after the review examiner determined that the claimant left employment for urgent, compelling, and necessitous reasons and, thus, was not 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 employer's appeal, we remanded the case to the review examiner to give the employer an opportunity to testify and provide other evidence. 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 left employment for urgent, compelling, and necessitous reasons related to his wife's medical condition and restrictions, is supported by substantial and credible evidence and is free from error of law, where, after remand, the review examiner found that the medical issues arose after the claimant's separation from employment for other reasons.

### Findings of Fact

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

1. From January 13, 2022, to June 14, 2023, the claimant worked full-time (40 hours weekly) as a building maintenance technician for the employer, a property management company. The claimant worked Monday through Friday from 8:00 a.m. to 4:00 p.m.
2. The claimant's direct supervisor was the employer's maintenance supervisor. The maintenance supervisor's direct supervisor was the employer's president.
3. The claimant and his wife were born in Morocco. The claimant's extended family, including his brothers and sisters, live in Morocco.
4. In August, 2022, after visiting with family in Morocco for six weeks, the claimant and his wife flew back to Massachusetts on round trip tickets with a return date to Morocco in March, 2023.
5. In September, 2022, in Morocco, the claimant's brother passed away due to cancer.
6. Subsequently, the claimant informed his supervisor and the president that since his brother had passed away, he would have to travel to Morocco at some point for a few weeks to take care of "family business".
7. On or about the beginning of June, 2023, one of the claimant's brothers told the claimant he needed to return to Morocco "before the holiday" to meet with attorneys to complete paperwork related to division of the family's businesses and land.
8. The claimant did not have a specific date that he was supposed to meet with the attorney.
9. July is typically a slow season for the employer.
10. On or about June 11, 2023, the claimant told the president he was leaving to go to Morocco for three to four weeks to take care of "family business", and his last day would be June 14, 2023. The claimant did not provide a specific date when he would return. The president told the claimant he could not hold the claimant's job for him. The claimant also told his supervisor that he was going to Morocco. The supervisor told the claimant that when he returned to Massachusetts, he was eligible for rehire if the employer had work available.
11. On June 14, 2023, the claimant quit his job to travel to Morocco to visit with family, celebrate the holiday, and help his siblings decide how to dispose of and divide the family's businesses, land and other assets, which included meeting with attorneys and signing legal documentation.

12. The claimant did not have to go to Morocco. The claimant did not trust the attorneys to make sure the assets were divided equally. The claimant trusted his siblings but wanted to ensure there were no mistakes.
13. The claimant's last physical day working for the employer was June 14, 2023.
14. On or about June 15, 2023, the claimant and his wife flew to Morocco using the return flight from the round-trip ticket they had purchased in Morocco in 2022. When the claimant flew to Morocco, he did not have a return flight to Massachusetts.
15. The claimant met with the attorneys and signed the documents before July, 2023.
16. On or about the first week of July, 2023, the claimant called his supervisor from Morocco from his Moroccan cell phone. The supervisor did not answer, and the claimant did not leave a message. It is unknown if the supervisor received the call. The claimant never texted the supervisor.
17. On or about July 11, 2023, the claimant and his wife learned they were pregnant with twins, the couple's first pregnancy. Due to pregnancy complications, including persistent bleeding, the wife had weekly doctor's appointments.
18. On July 19, 2023, the claimant texted the president that he would return to Massachusetts "probably by the first week of August...". The president read and received the text and did not respond.
19. Subsequently, due to the persistent bleeding, the wife's physicians determined she could not travel, and was required to rest at home until her symptoms resolved.
20. On August 4th and August 7th, the president texted the claimant asking if he had returned to Massachusetts. The claimant did not receive the texts and did not respond.
21. On August 17, 2023, after the claimant's coworker told him that the supervisor was looking for him, the claimant texted the president, "I will be back next week." The claimant intended to return to Massachusetts without his wife, who could not fly due to her pregnancy complications. The president received and read the text and did not respond.
22. After August 17, 2023, the claimant did not contact the supervisor or the president.
23. Subsequently, the wife's physicians advised the claimant to stay with his wife in Morocco, due to her continued pregnancy complications.

24. In September, 2023, the claimant's wife was in the hospital and there was a severe earthquake. The wife miscarried one of the twins.
25. In September, 2023, the supervisor stopped working for the employer.
26. On October 27, 2023, a physician diagnosed the claimant's wife with "a partial thrombosis of the right great saphenous vein...requiring hospitalization and treatment suitable anticoagulant".
27. From on or about the middle of August, 2023 until December 11, 2023, when the wife's physicians determined she could fly to Massachusetts, the claimant's wife was restricted to bed rest and could not fly.
28. The claimant bought his and his wife's return tickets to Massachusetts on or about December 11, 2203 [sic].
29. On December 15, 2023, the claimant and his wife returned to Massachusetts. That same week, the claimant met with the president and asked to return to work. The owner told the claimant he did not have work available, but he would let the claimant know if work became available.
30. On January 2, 2024, the claimant applied for unemployment benefits with the Department of Unemployment Assistance (DUA) with an effective date of December 31, 2023. The claimant reported he was still working "part-time" or "on-call" for the employer as of January 2, 2024.
31. The employer did not discharge the claimant.
32. The employer did not initiate the separation.
33. The claimant quit his employment.
34. At the time the claimant quit, the employer had work available.
35. The claimant never told the employer about this wife's medical condition.
36. The claimant would have returned to Massachusetts before December, 2023, if not for his wife's inability to fly due to pregnancy complications.

Credibility Assessment:

In this case, the parties agree to the following: 1. On or about June 11, 2023, the claimant told the president and the supervisor, separately, that he was leaving work to fly to Morocco for several weeks to "settle family business" and his last day would be June 14, 2023; 2. The claimant never provided the employer with a return to work date; 3. The last physical day the claimant worked for the employer was June 14, 2023; 4. On or about June 16, 2023, the claimant and his wife flew to

Morocco; and 5. The claimant and his wife returned to Massachusetts in December, 2023.

The claimant maintained that he never intended to quit his employment, and that the separation occurred when he could not return from his employer-approved vacation, due to his wife's medical condition. The claimant asserted that he requested to take six to eight weeks off from work to travel to Morocco, and that the supervisor and the president approved his request with the understanding that when he returned to Massachusetts, he would return to work. Although the parties dispute whether the claimant said he would be gone three to four weeks, as the president testified, or six to eight weeks, as the claimant maintained, where the claimant and the president's text correspondence says "3/4 weeks", and where the claimant texted the president on July 19th about one month after his last day, it is concluded that the claimant told the employer he would return to Massachusetts in three to four weeks. However, both parties agree the claimant never provided a specific return date. Indeed, when the claimant spoke to the employer, he did not have a return ticket and did not know when he would be returning. The claimant's testimony regarding his reasons for going to Morocco was vague and evasive. The claimant maintained he had to travel to Morocco to take care of "family business" following his brother's death, which included meeting with attorneys. However, the claimant acknowledged [that] when he traveled to Morocco, he did not have a scheduled appointment with the attorneys. Moreover, the claimant's brother died in September, 2022, approximately nine months before the claimant traveled to Morocco. In addition, the claimant acknowledged that his siblings could have taken care of the "family business" without him, but he chose to participate to make sure assets were divided fairly. Further, the claimant stated at the remand hearing that if he had known he would not have a job if he went to Morocco for six to eight weeks, he would have only gone to Morocco for a week or so to meet with the attorneys, and then flown back. Rather, the claimant maintained that he was never told that his job might no longer be available when he returned. The president testified that he personally, as well as the supervisor, told the claimant that the employer could not guarantee the claimant's position would still be available when he returned. The president's testimony, that he was unwilling to indefinitely hold the claimant's position, is logical and corroborated by contemporaneous text correspondence, albeit with the supervisor. Based on the totality of the evidence, this review examiner finds the president's testimony, that the claimant quit his employment on June 14, 2023, more credible than the claimant's.

### 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. However,

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

Because the claimant quit his position, his 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 he is eligible for unemployment benefits.

Because nothing in the record suggests that the employer did anything unreasonable to cause the separation, the claimant's resignation is not due to good cause attributable to the employer within the meaning of G.L. c. 151A, § 25(e)(1). *See Conlon v. Dir. of Division of Employment Security*, 382 Mass. 19, 23 (1980) (when 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). Alternatively, we consider whether the claimant's separation was due to 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 (2006), *quoting Reep*, 412 Mass. at 847.

In this case, after remand, the review examiner found that, on or about June 11, 2023, the claimant informed the employer that he was going to Morocco for three to four weeks to take care of family business related to the division of his family's businesses and land. Consolidated Finding ## 7 and 10. The employer indicated that, based on business needs, and because the claimant was unable to provide a specific date when he would return, the employer could not hold the claimant's job if he traveled to Morocco.<sup>1</sup> Consolidated Finding # 10. Nonetheless, the claimant decided to travel to Morocco, effectively quitting his employment on June 14, 2023. Consolidated Finding # 11.

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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).

We do not believe that the circumstances for which the claimant quit his employment constitute the type of pressing circumstances that have been recognized as amounting to an urgent, compelling and necessitous reason to leave employment. It is understandable the claimant wanted to travel to Morocco to personally oversee that his financial interests were protected when his family's businesses and land were divided amongst his family members. Consolidated Finding # 12. However, there is no indication in the record that failing to personally oversee these matters would cause the claimant a financial hardship that could constitute an urgent, compelling and necessitous reason to leave employment. For example, the claimant did not contend that he depended on his financial interests in Morocco to cover his and his family's necessary living expenses, such as food and shelter. Indeed, the review examiner expressly found that the claimant did not need to travel to Morocco. Consolidated Finding # 12. Thus, the record indicates that the "family business" at issue and financial matters related thereto could have been expeditiously resolved without the claimant's personal presence. The record further indicates that the claimant made a personal decision to travel to Morocco for an indefinite period with the foreknowledge that, by so doing, he would be unable to retain his employment.

In short, the claimant voluntarily separated from his employment on June 14, 2023, when he chose to travel to Morocco for an indefinite period, and subsequently failed to report to work after that date. This separation occurred prior to the onset of the pregnancy complications experienced by the claimant's wife, which delayed his return to the United States. Thus, the claimant's separation from employment was not caused by his wife's medical issues.

Even assuming, *arguendo*, that the claimant has demonstrated urgent, compelling and necessitous reasons to leave his job, 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 [his] employment' as would indicate the claimant's 'desire and willingness to continue [his] 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).

Based on the totality of the Consolidated Findings, we do not believe that the claimant made any effort to preserve his employment, as it does not appear from this record that he explored alternatives to traveling to Morocco for an indefinite period of time. The review examiner found that the claimant took care of the financial matters at issue within two weeks of arriving in Morocco. Consolidated Findings ## 11 and 15. We can reasonably assume that the attorneys involved had prior experience in the financial matters at issue and would have been able to tell the claimant before he traveled that the process was expected to take approximately two weeks or less, thereby allowing the claimant to give the employer a set date on which he would return to work. The claimant's failure to investigate these matters and give the employer a definite date of return shows an unwillingness on the claimant's part to maintain his employment. Additionally, it does not appear that the claimant investigated the possibility of having the documents he needed to sign sent to him in the United States.

We, therefore, conclude as a matter of law that the claimant has not met his burden to show that he involuntarily resigned from the employer due to urgent, compelling, and necessitous circumstances, pursuant to G.L. c. 151A, § 25(e).

The review examiner's decision is reversed. The claimant is denied benefits for the week beginning June 11, 2023, and for subsequent weeks, until such time as he has had at least eight weeks of work and has earned an amount equivalent to or in excess of eight times his weekly benefit amount.

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



Paul T. Fitzgerald, Esq.  
Chairman



Michael J. Albano  
Member

Member Charlene A. Stawicki, 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](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