

Regardless of whether the claimant's separation from the employer was disqualifying under G.L. c. 151A, § 25(e)(1), the claimant is still eligible for benefits under a claim filed after separating from a subsequent employer. Since the claimant had at least eight weeks of work with another employer prior to filing her claim, the present employer was not an interested party.

**Board of Review
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Issue ID: 0083 8726 81

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 June 21, 2024. She filed a claim for unemployment benefits with the DUA, effective September 22, 2024, which was denied in a determination issued on October 31, 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 affirmed the agency's initial determination and denied benefits in a decision rendered on February 12, 2025. 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). Our decision is based upon our review of the entire record, including the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal.

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, disqualifies the claimant from receiving benefits, where the employer is not an interested party on the claim.

Findings of Fact

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

1. The claimant worked part-time as a personal care assistant (PCA) for the employer, an individual patient (the Patient), from September, 2023 until approximately June 21, 2024.
2. The claimant worked for the Patient through an agency.

3. The claimant worked Wednesdays, Thursdays, and Fridays for the Patient for approximately 5 hours per day.
4. The claimant earned \$19 per hour.
5. The claimant's supervisor was the surrogate (the Surrogate).
6. The claimant also worked as a PCA for the Patient's husband (the Husband) on different days of the week.
7. During the claimant's employment, the claimant felt disrespected by the Patient.
8. On unknown dates, the claimant verbally told the Surrogate that the Patient was rude. The Surrogate told the claimant that she needed to calm down and acknowledge that the Patient was "old and sick."
9. On approximately June 7, 2024, the claimant arrived at the Patient's apartment and let herself in.
10. The Patient told the claimant that the Husband's PCA for that day had not arrived. The Patient told the claimant that she was "sick and tired of it."
11. The claimant felt that the Patient was yelling at her.
12. The claimant told the Patient that it was not her fault.
13. The Patient told the claimant that she "needed to suck it up and do her job."
14. The claimant did not bring any issues with her employment to the agency's attention.
15. The claimant did not request a transfer to a different patient.
16. The claimant did not report any issues with the Husband being sexually abusive to the agency or law enforcement. The claimant did not report the issue in writing to the Surrogate.
17. The claimant did not take any steps to preserve her employment because she was "fed up."
18. On approximately June 7, 2024, the claimant gave verbal notice to the Patient and the Surrogate that she was quitting effective June 21, 2024.

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. After such review, the Board adopts a portion of the review examiner's findings of fact and deems them to be supported by substantial and credible evidence, but we reject a number of the findings, as explained below. We further reject the review examiner's legal conclusion that the claimant is ineligible for benefits.

Under G.L. c. 151A, § 38(b), the DUA must give notice of a claim to the claimant's most recent employing unit and to such other employers as the DUA shall prescribe. The DUA has prescribed that interested party employers include those employers from whom the claimant became separated during the last eight weeks of employment prior to the effective date of her benefit year claim. Pursuant to this policy, a claimant's eligibility under G.L. c. 151A, § 25(e), will only be based upon her separation from interested party employers.

This policy is consistent with the eight-week disqualification period, which the Legislature embedded into G.L. c. 151A, § 25, which states:

[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 and until the individual has had at least eight weeks of work . . . 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, (2) by discharge shown to the satisfaction of the commissioner by substantial and credible evidence to be attributable to . . . a knowing violation of a reasonable and uniformly enforced rule or policy of the employer, provided that such violation is not shown to be as a result of the employee's incompetence

(Emphasis added.)

Thus, an individual who separates from a prior employer and immediately files an unemployment claim may be disqualified under G.L. c. 151A, § 25(e)(1) or (2), depending upon the circumstances of that separation. However, what transpired with this former employer is not disqualifying if that individual subsequently performs eight weeks of work for another employer and then files a claim. That is because the DUA has no interest in the prior employer's separation, as it has no bearing on whether the claimant is entitled to benefits under G.L. c. 151A, § 25.

Here, we note that the information contained in the DUA's record-keeping system, UI Online, shows that the claimant filed her present unemployment claim with the DUA on September 30, 2024, with an effective date of September 22, 2024. As reflected in the findings of fact, this claim was filed 14 weeks after the claimant's separation from the instant employer on June 21, 2024. Additionally, UI Online shows that the claimant worked for a new employer from July 3, 2024, until her separation on September 24, 2024. Since the claimant did not become separated from the instant employer during the last eight weeks of employment prior to opening her claim, the employer is not an interested party employer.

We further note that we believe that several of the review examiner's findings of fact, along with his reasoning and conclusions, are not supported by the substantial and credible evidence in the record. However, because this decision pertains to an employer who is not an interested party, and her separation does not affect the claimant's eligibility for benefits, we will not disturb it on appeal.

We, therefore, conclude as a matter of law that the claimant may not be disqualified from receiving benefits under this claim based upon her separation from the employer on June 21, 2024.

The review examiner's decision, which concluded that the claimant is ineligible to receive benefits, is reversed. The claimant is entitled to receive benefits for the week beginning September 22, 2024, and for subsequent weeks if otherwise eligible.

BOSTON, MASSACHUSETTS
DATE OF DECISION - March 28, 2025



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

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