

Where the claimant was in an approved G.L. c. 151A, § 30(c) training program, he was not required to accept all suitable work offered by his employer, and his decision to reduce his hours to focus on his training program did not render him ineligible for benefits under G.L. c. 151A, §§ 29 and 1(r).

**Board of Review
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Issue ID: 0084 3684 64

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 filed a claim for unemployment benefits with the DUA effective April 21, 2024. The DUA approved the continued payment of benefits to the claimant beginning November 17, 2024, in a determination issued on December 4, 2024. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits attended by both parties, the review examiner overturned the agency's initial determination and denied benefits as of November 17, 2024, in a decision rendered on January 4, 2025. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant was not in total or partial unemployment and, thus, was disqualified under G.L. c. 151A, §§ 29 and 1(r). 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 was not entitled to benefits because he chose to reduce his part-time work schedule in order to focus on his online training program, 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. The claimant filed a claim for unemployment insurance benefits, effective April 21, 2024, with a benefit year end of April 19, 2025. The Department of Unemployment Assistance (DUA) calculated the claimant's weekly benefit amount as \$725.00, with an earning disregard of \$241.67.

2. The claimant was hired as a part-time retail associate, earning \$17.00 per hour, with the employer, a retail company, beginning on October 18, 2024.
3. Upon hire, the claimant was scheduled to work Sunday from 6:00 a.m. until 11:00 a.m., Monday from 6:00 a.m. until 10:00 a.m., Tuesday from 6:00 a.m. until 12:00 p.m., Thursday from 6:00 a.m. until 10:00 a.m., and Saturday from 6:00 a.m. until 10:00 a.m.
4. The claimant was not scheduled to work on Wednesday and Friday.
5. In approximately October 2024, the claimant enrolled in an online software training program that would end on February 28, 2025.
6. The claimant's online classes allowed him to complete coursework at his own convenience.
7. On October 28, 2024, the claimant requested to have his scheduled Tuesday hours reduced from 6:00 a.m. until 12:00 p.m., to 6:00 a.m. to 10:00 a.m. to focus more on his online software training program.
8. On November 26, 2024, the claimant requested to have his Tuesday shift removed from the schedule to focus more on his online software training program.
9. Since the week beginning November 17, 2024, the claimant has reduced his hours of employment, first reducing his scheduled Tuesday shift from six (6) hours to (4) hours to focus more on his online software training program on October 28, 2024, and secondly removing his entire scheduled Tuesday shift to focus more on his online software training program on November 26, 2024.
10. Since the week beginning November 17, 2024, the employer has had the claimant's original upon hire work schedule available for him.
11. Since the week beginning November 17, 2024, the claimant has not worked his original upon hire work schedule as he wanted to focus more on his online software training program.
12. Since the week beginning November 17, 2024, the claimant has not requested additional hours of employment as he wanted to focus more on his online software training program on November 26, 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. 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 beginning November 17, 2024.

G.L. c. 151A, § 29, authorizes benefits be paid only to those in "total unemployment" or "partial unemployment." Total unemployment is defined at G.L. c. 151A, § 1(r)(2), and provides, in relevant part, as follows:

"Total unemployment", an individual shall be deemed to be in total unemployment in any week in which he performs no wage-earning services whatever, and for which he receives no remuneration, and in which, though capable and available for work, he is unable to obtain any suitable work.

Partial unemployment is defined at G.L. c. 151A, § 1(r)(1), and provides, in relevant part, as follows:

"Partial unemployment", an individual shall be deemed to be in partial unemployment if in any week of less than full-time weekly schedule of work he has earned or has received aggregate remuneration in an amount which is less than the weekly benefit rate to which he would be entitled if totally unemployed during said week....

Pursuant to these provisions, claimants are eligible for benefits only if they are physically capable of, available for, and actively seeking full-time work, and they may not turn down suitable work. However, individuals who have been approved for an extension of benefits under G.L. c. 151A, § 30(c), are exempt from this requirement while they participate in an approved training program (Section 30 benefits). *See* G.L. c. 151A, § 25(c). This exemption can also be found within the regulations governing the Training Opportunities Program at 430 CMR 9.07(2).

A review of the claimant's profile in UI Online, the DUA's electronic record-keeping database, shows that the claimant was approved for Section 30 benefits for the period between November 17, 2024, and March 1, 2025, in a separate determination in Issue ID # 0084 2769 12. As such, he was under no obligation to remain available for a certain number of hours or otherwise accept all available suitable work for the duration of his approved training program. Nonetheless, the review examiner denied the claimant benefits beginning the week of November 17, 2024, because he reduced his hours with the instant employer. This was an error.

We, therefore, conclude as a matter of law that while enrolled in an approved training program pursuant to G.L. c. 151A, § 30(c), the claimant may not be disqualified for reducing his hours and declining suitable work, because he is not subject to the requirements of G.L. c. 151A, §§ 29 and 1(r).

The review examiner's decision is reversed. The claimant is entitled to receive benefits for the weeks of November 17, 2024, through March 1, 2025, if otherwise eligible.

BOSTON, MASSACHUSETTS
DATE OF DECISION - March 7, 2025



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.

LSW/rh