

The claimant's reasons for separating from this employer had no bearing on his eligibility for benefits. Since the claimant subsequently had at least eight weeks of work with another employer prior to filing his claim, the present employer was not an interested party under G.L. c. 151A, § 38(b), and the claimant's eligibility pursuant to G.L. c. 151A, § 25(e) may not be based on that separation.

**Board of Review
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Issue ID: 0084 8190 04

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 affirm.

The claimant resigned from his position with the employer on July 3, 2024. He filed a claim for unemployment benefits with the DUA, effective December 29, 2024, which was denied in a determination issued on January 22, 2025. 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 awarded benefits in a decision rendered on March 14, 2025. We accepted the employer's application for review.

Benefits were awarded after the review examiner determined that the claimant left employment to accept new employment on a permanent, full-time basis and, thus, was not disqualified under G.L. c. 151A, § 25(e). 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 employer's appeal.

The issue before the Board is whether the review examiner's decision, which concluded that the claimant is entitled to receive benefits because he left employment with the instant employer to accept new, permanent, full-time employment with a different employer, 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 worked as a full-time irrigation technician for the instant employer, a landscaping business, from March 6, 2023, until July 3, 2024, when he separated.

2. The claimant's immediate supervisors were the account managers ("account manager A" and "account manager B").
3. In June 2024, the claimant received an offer of new, permanent, full-time work as an irrigation technician for a landscaping business (employer A). The claimant was told he could start work after his two-week notice period with the instant employer ended. The claimant was told he would report to the owner's son, and his hourly rate of pay was to be \$27.00.
4. On or about June 17, 2024, the claimant verbally gave two weeks' notice to account manager B.
5. On July 3, 2024, the claimant quit his employment with the instant employer to accept an offer of permanent, full-time employment with employer A.
6. The claimant began working for employer A on July 8, 2024.
7. The claimant separated from his job with employer A on September 30, 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. Although we agree with the review examiner's conclusion that the claimant is eligible to receive benefits, we affirm on other grounds.

Under G.L. c. 151A, § 38(b), the DUA must give notice of an unemployment 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 a claimant became separated during the last eight weeks of employment prior to the effective date of his benefit year claim. Pursuant to this policy, a claimant's eligibility under G.L. c. 151A, § 25(e), will only be based upon his 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 a factor in determining eligibility for benefits if that individual subsequently performs eight weeks of work for another employer and then files a claim. The DUA has no interest in the prior employer's separation, because it has no bearing on whether the claimant is entitled to benefits under G.L. c. 151A, § 25.

A review of the claimant's profile in UI Online, the DUA's electronic recordkeeping system, shows that the claimant filed his claim for benefits on December 30, 2024, with an effective date of December 29, 2024. This claim was opened more than 25 weeks after the claimant's separation from the instant employer on July 3, 2024. *See* Finding of Fact #1. Further, UI Online records confirm that, after separating from the instant employer, the claimant worked for another employer until September 30, 2024. Specifically, Findings of Fact ## 6–7 indicate that the claimant worked for the new employer from July 8, 2024, through September 30, 2024, which is a period of 12 weeks. As DUA records show that the claimant did not work for the instant employer during the last eight weeks of employment prior to filing his claim, the instant employer is not an interested party employer.

We, therefore, conclude as a matter of law that the claimant's separation from this employer has no bearing on his eligibility for benefits under G.L. c. 151A, § 25(e), because it was not an interested-party employer pursuant to G.L. c. 151A, § 38(b).¹

The review examiner's decision is affirmed. The claimant is entitled to receive benefits for the week of June 29, 2024, and for subsequent weeks if otherwise eligible.

N.B.: Information contained in the record and UI Online indicates that the claimant separated from an interested party employer before filing his claim. For this reason, we are asking the agency to investigate the claimant's eligibility for benefits based on this separation under the provisions of G.L. c. 151A, § 25(e).

BOSTON, MASSACHUSETTS
DATE OF DECISION - April 25, 2025



Paul T. Fitzgerald, Esq.
Chairman



Michael J. Albano
Member

¹ We also note that UI Online records indicate that the employer has not been charged for the claimant's benefits at any time. The claimant's benefit payments, which he began receiving in January, 2025, have been issued through the DUA's solvency account.

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.

JMO/rh