

**When the claimant complained about his supervisor's behavior, the employer investigated and addressed his complaints. When the claimant learned the employer made operation changes while he was on a leave of absence, he chose to resign rather than discuss them with the employer. Held that the claimant failed to show unreasonable harassment or good cause attributable to the employer to resign. The claimant is ineligible for benefits pursuant to G.L. c. 151A, § 25(e)(1).**

**Board of Review  
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**Issue ID: 334-FHHT-RPPL**

### 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 October 7, 2024. He filed a claim for unemployment benefits with the DUA, effective October 6, 2024, which was denied in a determination issued on December 13, 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 awarded benefits in a decision rendered on June 21, 2025. We accepted the employer's application for review.

Benefits were awarded after the review examiner determined that the claimant voluntarily left employment for good cause attributable to the employer and, thus, was not 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 employer's appeal.

The issue before the Board is whether the review examiner's decision, which concluded that that claimant was eligible for benefits because his supervisor and the Head of Human Resources created a hostile work environment, 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 employer's establishment is a medical device manufacturer. The employer maintains locations in [Location A] and [Location B].

2. In 2012, the claimant initially started working for the employer as a temporary worker through a temporary agency.
3. On August 15, 2015, the claimant was hired to work for the employer as a permanent full-time employee for the employer's establishment. The claimant was assigned to work on-site at the employer's [Location A] location. The claimant also supported the employer's [Location B] location.
4. The claimant's hired job title was Information Technology (IT) Technician. The claimant's most recent job title was IT/Manufacturing Engineering Technician.
5. The claimant was usually scheduled to work for the employer Monday through Friday from 7:30 a.m. until 3:30 p.m. with on-call duties on the weekends.
6. The claimant was most recently paid an annual salary of \$77,168.00.
7. The claimant's most recent supervisor was the Director of Manufacturing & Information Technology (hereinafter the 1<sup>st</sup> Director).
8. The employer did provide the claimant with salary increases through the course of the claimant's employment. The claimant initially was paid per hour at the employer's establishment. The claimant most recently was paid on a salary arrangement by the employer's establishment.
9. On a Compensation Change form dated August 12, 2015, the employer increased the claimant's hourly rate of pay from \$22.05 per hour to \$23.00 per hour. On a Compensation Change form dated November 9, 2017, the employer increased the claimant's hourly rate of pay from \$23.92 per hour to \$24.88 per hour. On a Compensation Change form dated November 13, 2018, the employer increased the claimant's hourly rate of pay from \$24.88 per hour to \$25.63 per hour. On a Compensation Change form dated November 13, 2019, the employer increased the claimant's hourly rate of pay from \$25.63 per hour to \$26.75 per hour. On a Compensation Change form dated October 8, 2020, the employer increased the claimant's hourly rate of pay from \$26.75 per hour to \$29.00 per hour. On a Compensation Change form dated December 20, 2021, the employer increased the claimant's hourly rate of pay from \$29.00 per hour to \$33.00 per hour. On a Compensation Change form dated December 15, 2022, the employer increased the claimant's hourly rate of pay from \$33.00 per hour to \$35.00 per hour. On a Compensation Change form dated October 18, 2023, the employer increased the claimant's annual salary from \$72,800 to \$77,168.00.
10. The employer's establishment was a hostile work environment for the claimant.
11. The hostility in the employer's establishment toward the claimant initially started by the behavior of the 1<sup>st</sup> Director towards the claimant.
12. The 1<sup>st</sup> Director was treating the claimant badly at work.

13. On November 15, 2017, the claimant and six of his co-workers signed [sic] form requesting a meeting with the employer about issues and concerns they had working for the employer's establishment. The claimant and his co-workers eventually did have the meeting to address their concerns working for the employer, including concerns about the 1<sup>st</sup> Director.
14. The claimant believed that the 1<sup>st</sup> Director was also discriminating against the claimant as the claimant is of Asian Cambodian ethnicity. The claimant believed that the 1<sup>st</sup> Director was more favorable to the claimant's co-workers that were of Asian Vietnamese ethnicity. The 1<sup>st</sup> Director was of Asian Chinese ethnicity.
15. The claimant had made several complaints to the employer's Head of Human Resources verbally and in writing that the 1<sup>st</sup> Director was treating the claimant badly at work. The Head of Human Resources agreed that the 1<sup>st</sup> Director was treating the claimant badly.
16. During verbal complaints, the claimant informed the Head of Human Resources that the claimant felt the 1<sup>st</sup> Director was being discriminatory towards the claimant.
17. After the claimant complained to the Head of Human Resources that the 1<sup>st</sup> Director was treating the claimant badly, the 1<sup>st</sup> Director continued not to treat the claimant fairly.
18. On April 24, 2024, the claimant sent the Head of Human Resources an e-mail complaining that the 1<sup>st</sup> Director was requiring the claimant to make up work time even though the claimant was a salaried worker.
19. The claimant's last date of work for the employer performing tasks in his job role was May 23, 2024.
20. On May 23, 2024, the claimant attended a meeting with the 1<sup>st</sup> Doctor/Owner and the 2<sup>nd</sup> Doctor/Owner. During this meeting, the claimant expressed his complaints about the work environment including the treatment of the 1<sup>st</sup> Director towards the claimant.
21. The Director continued to treat the claimant poorly up to the claimant's last date of work at the employer's establishment of May 23, 2024.
22. After the claimant's last date of work for the employer, the claimant applied for a medical leave of absence from the employer's establishment for mental health medical issues. The employer approved the leave of absence from work. The claimant also applied for a Paid Family Medical Leave (PFML) by submitting a form to the Department of Family & Medical Leave (DFML) that was completed by the claimant and the claimant's doctor.

23. On the PFML form, the claimant's doctor listed the following information: "Provide your best estimate of the beginning date [5/24/2024] (mm/dd/yyyy) and end date [11/22/2024] (mm/dd/yyyy) for the period of incapacity." On the PFML form, the claimant's medical provider listed the following information regarding the claimant's medical condition: "depression/anxiety, insomnia, nightmares about work, [sic] such as dizziness, chest pressure."
24. The claimant's leave of absence through the PFML program was to end on October 10, 2024.
25. The claimant subsequently decided to send an e-mail to the 1<sup>st</sup> Doctor/Owner about the 1<sup>st</sup> Director treating the claimant badly. The claimant informed the Head of Human Resources of the claimant's intent to send the 1<sup>st</sup> Doctor/Owner an e-mail about the claimant being treated badly. The claimant agreed to send the Head of Human Resources a draft of the email that the claimant was intending on sending to the 1<sup>st</sup> Doctor/Owner about the claimant's work complaints.
26. On May 30, 2024, the claimant sent the Head of Human Resources a draft of the e-mail that the claimant was planning on sending to the 1<sup>st</sup> Doctor/Owner surrounding his complaints about the work environment including the bad treatment of the 1<sup>st</sup> Director towards the claimant. In the draft e-mail, the claimant wrote in part:
- "[Head of Human Resources has been fully aware of my situation and has been a good resource in helping me navigate through this ordeal with [1<sup>st</sup> Director]. I am hopeful that a complete and thorough internal investigation will be pursued by [employer], but I am concerned because 2 months have already passed by without resolution. I have endured many traumatic incidents with [1<sup>st</sup> Director] throughout my years of employment with [employer] which is truly disheartening and it has affected me mentally, physically, and emotionally. I am currently seeking professional medical attention for the deterioration of my health due to inhumane treatment case from [1<sup>st</sup> Director] As I have stated in our meeting, I will be out on PFMLA starting on 24-May-2024 through 22-Nov-2024 as advised by my doctor. In this e-mail I will detail to you my current issues as well as inform you of prior incidents that made me a target of discrimination by [1<sup>st</sup> Director.]"
27. On May 31, 2024, the Head of Human Resources sent the claimant an e-mail writing in part: "[Claimant]-please remove the highlighted sentence before you e-mail [1<sup>st</sup> Doctor/Owner]. – I was never made aware that you thought [the 1<sup>st</sup> Director] was discriminating against you and I completely disagree that that was happening. I believe that [1<sup>st</sup> Director] did not always treat you as he should, but that is not discrimination. The inclusion of this sentence in your e-mail will cause me a great deal of harm and I do not believe that is your intention. **[Head of Human Resources] has been fully aware of my situation**

**and has been a good resource in helping me navigate through this ordeal with [1<sup>st</sup> Director]. I am hopeful that a complete and thorough internal investigation will be pursued by [employer], but I am concerned because 2 months have already passed by without resolution.”**

28. On May 31, 2024, the claimant sent the following text message to the Head of Human Resources:

“Good morning [Head of Human Resources] sorry I missed your call yesterday evening and this morning. I read your last email and would like to respond. I would now prefer to discuss matters via email rather than talking on the phone. I don’t want to have any confusion or any misunderstanding going forward. Thank you for understanding. I will send this email out to you today as well my email to (1<sup>st</sup> Doctor/Owner) and (2<sup>nd</sup> Doctor/Owner).”

29. In response to the claimant’s May 31, 2024, text message, the Head of Human Resources sent the claimant the following text message:

“Will you take my name out it? I never once spoke to you about discrimination and it is not accurate. Please understand that I could lose my job if it looks like I was coaching you to file a discrimination lawsuit.”

30. On June 11, 2024, the claimant sent an e-mail to the Head of Human Resources in response to the Head of Human Resources’ May 31, 2024, e-mail to the claimant requesting for the claimant to remove the Head of Human Resources’ name out of the claimant’s draft e-mail to the 1<sup>st</sup> Doctor/Owner. In this e-mail, the claimant expressed disagreement about the Head of Human Resources recollection of events about the claimant’s complaints to the Head of Human Resources about the work environment including the 1<sup>st</sup> Director.

31. On June 11, 2024, the Head of Human Resources sent the claimant the following e-mail:

“We talked a lot about [1<sup>st</sup> Director’s] poor treatment of you, and I am 100% in agreement that he treated you badly for many years. What I don’t see is the discrimination. His treatment was bad, but not discriminatory. The way you wrote it made it look like I was helping you to file a discrimination lawsuit against [employer] which could have been very bad for me. You never said the word discrimination to me in our meetings. Please go ahead and send your e-mail to [1<sup>st</sup> Doctor/Owner] as it is. I have already spoken with him and explained that you and I had many discussions about [1<sup>st</sup> Director] and that he caused your physical illness. I am still behind you. [1<sup>st</sup> Doctor/Owner] and I have and several discussions about what to do about [1<sup>st</sup> Director] and I will let you know when a decision is made.”

32. The Head of Human Resources requested the claimant to remove her name from the claimant’s e-mail complaint to the 1<sup>st</sup> Doctor/Owner as the Head of Human

Resources disagreed about the claimant's outline of events in connection with the Head of Human Resources and also felt panicked.

33. The claimant eventually did send the 1<sup>st</sup> Doctor/Owner an e-mailing outlining his complaints regarding the employer's hostile work environment including the behavior of the 1<sup>st</sup> Director.
34. On August 5, 2024, the employer's Head of Human Resources sent the claimant the following e-mail:

"I just want to check in to see if you will be returning to [employer] as your PFML ends on 10/10/24. I would like to update you on some changes to your position if you decide to return. [IT Manager] is now the manager of IT and would be your manager. He has made some changes to the department, mainly that we use TechMD much less. [worker] has been taking care of the majority of IT calls, before we contact TechMD. We are in the process of hiring a full-time calibration specialist so that will no longer be part of your job. If there is not enough work to do in the IT Department you will resume your duties as Engineering Tech, but IT would come first.

Since [worker] is leaving in December, I would greatly appreciate it if you could let me know if you will be returning as soon as possible, so that I may start a search for your replacement if need be. I hope that your leave has provided you with the necessary rest to recuperate fully."

35. The claimant did receive the Head of Human Resources August 5, 2024, e-mail outlining that IT Manager was going to be the claimant's manager and inquiring into whether the claimant was going to return to work since the claimant's PFML allotment was ending on October 10, 2024. The claimant was still on a medical leave of absence when the claimant received this e-mail.
36. In the past, the claimant had also made complaints to the employer about the behavior of the IT Manager that was going to be the claimant's manager upon return to work from the leave [sic] medical leave of absence.
37. The employer's work environment of hostility towards the claimant transitioned from initially being caused by the 1<sup>st</sup> Director treating the claimant poorly into the Head of Human Resources also causing the hostile work environment by the Head of Human Resources requesting the claimant to remove her name from an e-mail the claimant was sending to the 1<sup>st</sup> Doctor/owner about feeling discriminated against, the Head of Human Resources e-mailing the claimant on August 5, 2024, to inquire if the claimant was going to return from his leave of absence that was scheduled to end for PFML on October 10, 2024, and informing the claimant that the claimant's manager upon his return from the leave of absence was going to be the IT Manager, which the claimant had previously complained to the employer in the past regarding the IT Manager's treatment towards the claimant.

38. The employer's work environment continued to be hostile towards the claimant after the claimant complained to the employer that the claimant was being treated poorly at work.
39. On October 5, 2024, the claimant submitted a letter to the employer, titled Involuntary Resignation from [employer] due to discrimination and Retaliatory Actions, resigning from his job position effective October 7, 2024.
40. The claimant has separately filed a complaint against the employer's establishment with the Massachusetts Commission of Discrimination. This matter is currently pending (as of the date of the hearing).
41. The claimant quit his job at the employer's establishment because the employer's establishment was a hostile work environment for the claimant initially being caused by the 1<sup>st</sup> Director treating the claimant poorly and subsequently caused by the Head of Human Resources not being supportive of the claimant any longer, requesting the claimant to remove her name from an e-mail to the 1<sup>st</sup> Director/Owner about the claimant feeling discriminated against by the 1<sup>st</sup> Director and contacting the claimant in August 2024 while the claimant was on a medical leave of absence to inquire if the claimant will be returning to work from the medical leave of absence which would be expiring in October 2024.
42. The claimant filed an initial unemployment claim effective the week beginning October 6, 2024.
43. On December 13, 2024, the Department of Unemployment Assistance Issued a Notice of Disqualification, UI Online Issue Identification Number 0083 9453 85, denying the claimant benefits under Section 25(e)(1) of the Law commencing the week beginning October 6, 2024, and until he met the requirements of the Law. In response to the Notice of Disqualification, the claimant appealed.

#### 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 the review examiner's findings of fact except as follows. We reject Findings of Fact ## 10, 17, 21, 37, and 38 because they are unsupported by the record as further explained below. We reject the portion of Finding of Fact # 11 insofar as it describes the employer's establishment as hostile. We also reject the portion of Finding of Fact # 36 insofar as it states that the claimant made multiple complaints against the IT Manager, where the record

reflects the claimant made one complaint.<sup>1</sup> We accept Finding of Fact # 41 only insofar as it characterizes how the claimant felt about the employer's establishment and his belief that the employer treated him poorly. In adopting the remaining findings, we deem 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 eligible for benefits.

Because the claimant resigned from his employment, we analyze his eligibility for benefits pursuant to 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. . . .

These provisions expressly place the burden of proof upon the claimant.

Here, the claimant alleged that his supervisor, the 1<sup>st</sup> Director, not only treated him poorly but discriminated against him based upon his ethnic background resulting in a hostile work environment. He also claims that the hostility continued off-site by the behaviors exhibited by the Head of Human Resources during his medical leave of absence. *See* Findings of Fact ## 12, 14–16, 34, 39, and 41.

Because the claimant alleges that the employer's workplace was a hostile environment, we also consider the behavior of the 1<sup>st</sup> Director and the Head of Human Resources in the context of a separate provision in G.L. c. 151A, § 25(e), and its corresponding DUA regulations. The sixth paragraph of G.L. c. 151A, § 25(e), provides as follows:

An individual shall not be disqualified, under the provisions of this subsection, from receiving benefits if it is established to the satisfaction of the commissioner that the reason for leaving work and that such individual became separated from employment due to sexual, racial or other unreasonable harassment where the employer, its supervisory personnel or agents knew or should have known of such harassment.

The DUA has promulgated regulations, which clarify this statutory provision. 430 CMR 4.04(5)(a)(3) defines other unreasonable harassment, in relevant part, as follows:

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<sup>1</sup> While not explicitly incorporated into the review examiner's findings, the Head of Human Resources' testimony regarding the claimant's complaint about the IT Manager's behavior, as well as her testimony regarding the investigations into the 1<sup>st</sup> Director and the new IT Manager referenced below, are part of the unchallenged evidence introduced at the hearing and placed in the record, and they are thus properly referred to in our decision today. *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).



Other unreasonable harassment – includes, but is not limited to, incidents of harassment related to age, religious creed, national origin, or handicap of any individual.

430 CMR 4.04(5) further provides, in relevant part, as follows:

(b) Sexual, racial or other unreasonable harassment may result from conduct by the employer or the employer's agents, supervisory employees, co-employees or non-employees. Such conduct may occur in or off the worksite and on or off company time. . .

(c)1. A claimant shall not be disqualified from receiving benefits under M.G.L. c. 151A, § 25(e)(1) for leaving work voluntarily without good cause attributable to the employing unit or its agent if he or she establishes to the satisfaction of the Commissioner that his or her reason for leaving work and separation from employment is due to:

a. sexual, racial or other unreasonable harassment by an employer, its agents or supervisory employees and the employer, its agents or supervisory employees knew or should have known of such harassment. . .

2. For purposes of determining a claimant's eligibility for benefits under 430 CMR 4.04([5])(c)1a., an employer is deemed to have knowledge of sexual, racial or other unreasonable harassment committed by its agents and supervisory employees in connection with the employment relationship regardless of whether the employer had actual knowledge of these acts.<sup>2</sup>

(d) In determining whether a claimant's reason for leaving work is due to harassment, the Division will look at the totality of the factual circumstances resulting in the claimant's separation from employment, such as the nature of the alleged harassment and the context in which the alleged harassing incidents occurred.

The express language of these provisions also places the burden of proof upon the claimant. The review examiner concluded that the claimant met his burden. We disagree.

The claimant alleged that his medical issues arose from his employment. *See* Findings of Fact ## 22 and 23. Specifically, he alleged that his mental health was adversely affected by a hostile work environment created by his supervisor on-site and perpetuated by the Head of Human Resources off-site during his leave of absence. *See* Finding of Fact # 41.

When a claimant contends that the separation was for good cause attributable to the employer, the focus is on the employer's conduct. Conlon v. Dir. of Division of Employment Security, 382 Mass. 19, 23 (1980). To determine if the claimant has carried his burden to show good cause under

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<sup>2</sup> Although the official version of 430 CMR 4.04(5)(b)(2) refers to "430 CMR 4.04(7)(c)1.a.," this appears to be a scrivener's error, as there is no subsection (7)(c)1a under 430 CMR 4.04.

the above-cited statute, we consider whether the claimant's workplace complaint was reasonable. *See Fergione v. Dir. of Division of Employment Security*, 396 Mass. 281, 286 (1985) (claimant's belief that she was being harassed was not a reasonable one).

The claimant resigned because he believed that the behaviors of the 1<sup>st</sup> Director and the Head of Human Resources created a hostile work environment. *See Findings of Fact ## 39 and 41.* To determine whether the alleged behavior is harassment within the meaning of the unemployment statute, 430 CMR 4.04(5)(d) states that we are to look at the totality of the circumstances.

The review examiner's findings show that the claimant made multiple complaints about the 1<sup>st</sup> Director's behavior towards the claimant. However, the only finding that refers to the 1<sup>st</sup> Director's specific behavior is Finding of Fact # 18. Finding of Fact # 18 provides that, on April 24, 2024, the claimant, in an email to the Head of Human Resources, expressed his concern that the 1<sup>st</sup> Director was requiring him to make up work time even though he was salaried worker. However, Exhibit 42, the April 24<sup>th</sup> email, also shows that the claimant was upset about the 1<sup>st</sup> Director making an unsubstantiated accusation that "engineering management" expressed concern with the claimant's schedule and accessibility, and, because of that, the 1<sup>st</sup> Director required that he text him his completed schedule at the end of each week.<sup>3</sup>

The claimant further alleged that the actions taken by the Head of Human Resources contributed to a hostile work environment. On May 24, 2024, the claimant requested and was approved for Paid Family Medical Leave (PFML). *See Findings of Fact ## 22 and 23.* The day before his leave commenced, the claimant met with the 1<sup>st</sup> Doctor/Owner and 2<sup>nd</sup> Doctor/Owner to express his concerns regarding the poor treatment he received from the 1<sup>st</sup> Director. The 1<sup>st</sup> Doctor/Owner requested that the claimant submit his concerns in writing and the claimant agreed to send a draft email to the Head of Human Resources before sending it to the 1<sup>st</sup> Doctor/Owner. *See Findings of Fact ## 20 and 25.*

Upon receipt of the draft email, the Head of Human Resources asked the claimant to remove any reference to her name from the email. *See Findings of Fact ## 27, 29, and 32.* The claimant became upset at the suggestion that he should remove her name from the email. He felt that the Head of Human Resources was not being truthful about the events surrounding the claimant's complaints about the work environment and the 1<sup>st</sup> Director. *See Finding of Fact # 30.*

In addition, the claimant contends that the employer violated the PFML Act by retaliatory actions while he was on a medical leave of absence, as outlined in the August 5, 2024, email. In this email, the Head of Human Resources asked if the claimant would be returning to work as his PFML was scheduled to end on October 10, 2024. She also provided the claimant with updates on changes the employer had made to its IT and Engineering departments. More specifically, it hired a new IT manager, who would be the claimant's new supervisor, and it hired a full-time calibration specialist, which would remove calibration as part of the claimant's job duties. *See Finding of Fact # 34.*

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<sup>3</sup> Exhibit 42, as well as Exhibits 3 and 45 discussed below, are also part of the unchallenged evidence introduced at the hearing and placed in the record.

Finally, the claimant asserts retaliation because he had previously filed a complaint with human resources about the IT Manager's past behavior, and the claimant believed that appointing him to be his new supervisor would only continue the hostility. *See* Finding of Fact # 36.

Although there is no dispute that the 1<sup>st</sup> Director had treated the claimant poorly, the totality of the circumstances do not show harassment with the meaning of 430 CMR 4.04. *See* Findings of Fact ## 15 and 31.

First, nothing in the record indicates a causal connection between the poor treatment he received by that supervisor and the claimant's Asian Cambodian identity. *See* Findings of Fact ## 14–18. Thus, the claimant has failed to show that the mistreatment was due to racial harassment. Nor do the totality of the circumstances show that the employer engaged in unreasonable harassment.

Regarding the conduct of the 1<sup>st</sup> Director, the findings show that the Head of Human Resources was aware that the claimant was having difficulties with his supervisor. *See* Findings of Fact ## 15, 16, and 18. The claimant asserts that the employer did nothing to address his concerns. *See* Finding of Fact # 26. We disagree.

In response to the claimant's April 24, 2024, email about his concerns that the 1<sup>st</sup> Director was requiring him to make up time, human resources responded to his complaints in a follow-up email dated April 30, 2024, addressed to both the 1<sup>st</sup> Director and the claimant. *See* Finding of Fact # 18. Exhibit 45, an email communication from the Head of Human Resources to the 1<sup>st</sup> Director and the claimant, shows the Head of Human Resources informed the 1<sup>st</sup> Director that she had investigated the claimant's concerns, and she determined that, because the claimant was an exempt salaried employee, he was neither required to make up any hours if he came late or left early, nor was he required to provide proof of his schedule to the 1<sup>st</sup> Director. She further informed the 1<sup>st</sup> Director that she followed up with the Director of Engineering and was informed that no one from his department had filed a complaint or made a comment about the claimant's schedule and accessibility. *See* Exhibit # 45. We note that nothing in the record suggests that the 1<sup>st</sup> Director continued to treat the claimant poorly after this.

The evidence also reflects that the Head of Human Resources had several discussions with the employer's owner (1<sup>st</sup> Doctor/Owner) about the 1<sup>st</sup> Director's behavior in the workplace. *See* Finding of Fact # 31. The Head of Human Resources testified that the employer subsequently initiated an investigation into the 1<sup>st</sup> Director's behavior towards his staff, which included speaking with the claimant's coworkers. The employer concluded that the 1<sup>st</sup> Director's behavior in the workplace warranted disciplinary action and issued him a written warning. However, because the 1<sup>st</sup> Director refused to sign the written warning, the employer decided to terminate his employment. On July 2, 2024, the Head of Human Resources notified the claimant that the 1<sup>st</sup> Director had been fired.

Given these facts, the record shows that the employer reasonably responded to the claimant's complaint. It also indicates that, once the Head of Human Resources became involved, the 1<sup>st</sup> Director's poor behavior toward the claimant stopped. The employer investigated the supervisor's behavior, disciplined and then fired him. Because the 1<sup>st</sup> Director had been terminated three months before the claimant's resignation, we are not persuaded that the claimant quit because of

his behavior. Nor has the claimant shown that the employer's response otherwise created good cause attributable to the employer for leaving his employment.

As for the claimant's contention that the employer violated the Massachusetts Paid Family Medical Leave Act, we are aware that the Commonwealth has provided employees with statutory safeguards prohibiting certain retaliatory acts while on an approved leave of absence. *See* G.L. c. 175M, § 9; and Findings of Fact ## 37 and 39. However, our analysis focuses on the employer's actions as they relate to the claimant's eligibility for unemployment benefits pursuant to G.L. c. 151A.

We next consider the Head of Human Resources' request that any reference to her in a highlighted sentence in the claimant's draft email to the 1<sup>st</sup> Doctor/Owner be removed. Although the Head of Human Resources agreed that the 1<sup>st</sup> Director had treated him poorly, she disagreed that the 1<sup>st</sup> Director's conduct was discriminatory. She also said that she did not want to give the appearance that she was coaching the claimant to file a discrimination action against the employer. *See* Findings of Fact ## 26, 27, 29 and 31. We fail to see how the request to have her name removed from an email constitutes harassment or retaliation. Nor do we see anything in the record that suggests the Head of Human Resources discouraged the claimant from reporting his concerns to 1<sup>st</sup> Doctor/Owner. In fact, by the claimant's own admission, he believed that she was helpful and supportive. *See* Finding of Fact # 26. Thus, we are not persuaded that her comments amounted to unreasonable harassment or good cause attributable to the employer for leaving employment.

We also disagree with the review examiner's finding that the employer created a hostile work environment simply by communicating with the claimant while he was on a medical leave of absence. At the time of inquiry, the claimant had already been out on leave for three months. *See* Findings of Fact ## 19, 22-24, and 34. In an email, the Head of Human Resources notified the claimant of changes within his department which included the hiring of a new supervisor, a change in personnel, changes within IT processes and the search for a calibration specialist. She also asked if the claimant would be returning to work as his PFML was scheduled to end in October. *See* Finding of Fact # 34. The employer has a right to make changes to its operation. We do not see how communicating such changes constitutes harassing behavior or retaliation. Furthermore, asking an employee who is halfway through his paid leave if he plans to return to work is a reasonable question, which enables an employer to ensure its operation is fully staffed. Thus, the employer's email communication during the claimant's leave of absence was not unreasonable harassment, nor did it create good cause attributable to the employer to resign.

The claimant further contends that the employer created a hostile work environment by appointing an individual that he previously complained about to be his new supervisor. *See* Finding of Fact # 36. Specifically, after the claimant's supervisor (1<sup>st</sup> Director) was terminated, the employer reorganized its IT and Engineering departments, and it appointed a new IT Manager. *See* Findings of Fact ## 7, 34, and 36. Although the claimant previously filed a complaint with human resources because the new IT manager swore in the workplace, there is no evidence that suggests the behavior continued.<sup>4</sup> *See* Finding of Fact # 36. Any assertion that the new IT manager would

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<sup>4</sup> The Head of Human Resources testified that the claimant filed a complaint because the new IT Manager swore a lot. She further testified that she had addressed the issue and counseled the new IT Manager to use appropriate language in the workplace.

have engaged in such conduct when the claimant returned from leave was, at that point, purely speculative.

During the hearing, the claimant further contended that he quit his job because the employer removed his calibration coordination duties from his job responsibilities while he was on a leave of absence. He believed that the employer's actions were a form of retaliation. Although the review examiner made no findings with respect to this issue, we will address it.

Because the employer is in the business of manufacturing medical devices, we can reasonably infer that calibration specifications in the development of its products requires accuracy. *See* Finding of Fact # 1. The findings also reflect that the claimant was initially hired as an IT Technician. As the years passed, the claimant's job responsibilities included providing support to the manufacturing and engineering departments. *See* Finding of Fact # 4. According to the claimant's undisputed testimony, calibration coordinator was one of the many duties he performed for the employer. *See* Exhibit # 3.

During cross examination, the claimant testified that he believed that he was not properly trained or qualified to perform the calibration coordinator duties and sometime in 2024, he lodged a complaint with the Head of Human Resources. Also, the Head of Human Resources testified that an audit was conducted while the claimant was on leave and the employer learned that there were calibration issues in the manufacturing of its medical devices. Based on these indicators, the employer decided to hire a calibration specialist. Considering the claimant believed that he was not qualified to perform the task, we fail to see how the employer's actions were a form of retaliation. The employer's decision to hire a calibration specialist was a reasonable business decision to address an operational deficiency. Thus, it did not constitute good cause attributable to the employer to resign.

Even if we were to assume, *arguendo*, that any of the employer's conduct was unreasonable, the Supreme Judicial Court has held that an employee who voluntarily leaves employment due to an employer's action has the burden to show that he made a reasonable attempt to correct the situation or that such attempt would have been futile. Guarino v. Dir. of Division of Employment Security, 393 Mass. 89, 93–94 (1984).

The claimant knew that, after complaining about the 1<sup>st</sup> Director, the employer had fired him. Yet, the claimant chose not to communicate with the employer to address his concerns about the appointment of the new IT supervisor and the reassignment of his calibration duties. Instead, the claimant resigned. *See* Finding of Fact # 39. The record indicates that the Head of Human Resources was both willing to and available to speak with him at the time he resigned. His failure to give the employer the opportunity to address his new concerns was unreasonable. Accordingly, the review examiner erred in concluding that the claimant reasonably believed any further attempts to preserve his employment would have been futile.

We, therefore, conclude as a matter of law that the claimant resigned his employment without good cause attributable to the employer within the meaning of G.L. c. 151A, § 25(e)(1).

The review examiner's decision is reversed. The claimant is denied benefits for the week ending October 12, 2024, 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.



Charlene A. Stawicki, Esq.  
Member

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - September 23, 2025**



Michael J. Albano  
Member

**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.

DY/rh