

When two managers left, some of their job responsibilities fell to the claimant, who could not get enough sleep, he felt exhausted, overburdened, and fatigued, and he began to experience anxiety about meeting deadlines and the potential impact on his health. Held this was a detrimental change to the claimant's employment. Although it met the criteria for good cause attributable to the employer to leave his employment pursuant to G.L. c. 151A, § 25(e)(1), the claimant did not take reasonable steps to preserve his employment or show that such an attempt would have been futile before resigning. Therefore, he is ineligible for benefits.

**Board of Review
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Issue ID: 334-FHJ4-7VPN

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 affirm.

The claimant resigned from his position with the employer on February 15, 2025. He filed a claim for unemployment benefits with the DUA, effective February 16, 2025, which was denied in a determination issued on April 3, 2025. 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 May 29, 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, is supported by substantial and credible evidence and is free from error of law, where the claimant did not express his concerns to the employer prior to quitting.

Findings of Fact

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

1. On May 1, 2023, the claimant began working as a full-time operations director for the employer, a retirement home.

2. The claimant's direct supervisors were the employer's executive director and the employer's regional director.
3. The claimant's position was a "salaried" position, and he did not receive overtime pay when he worked overtime hours.
4. In his role, the claimant's duties included "Oversee[ing] all Maintenance, Housekeeping, IT and Security operations."
5. When the claimant started the job, he expected it to be a regular 9:00 a.m. to 5:00 p.m. job, with occasional emergency calls.
6. After the claimant began working for the employer, two managers separated from the employer, and the claimant took on some of their duties.
7. After the two managers left, the claimant began to feel overwhelmed with too much work. He started working an average of 10 to 12 hours per day. He often had to stay after 5:00 p.m. to cover open shifts, he had to put in extra work at home to look through emails and keep up with communications, [and] he was often called in for emergencies late at night like at 2:00 a.m., etc.
8. With the increased workload, the claimant could not get enough sleep, he felt exhausted, overburdened, and fatigued, he started to feel nervous about meeting his deadlines, and he started to worry about the health impact of his exhaustion.
9. With the increased workload, the claimant felt there was no work-life balance. He felt that he was missing out on his children's activities due to work, and he felt that the work was straining his personal relationships.
10. The claimant called the employer-offered confidential therapy line to seek therapy services.
11. Throughout the claimant's employment with this employer, the employer never complained about the claimant's performance.
12. On January 6, 2025, the claimant gave a verbal resignation notice to the employer's executive director (ED). The claimant told the ED that due to the excessive workload, he was giving his two-weeks resignation notice, and that he would have to seek new employment.
13. After the employer [sic] gave his verbal notice, the employer requested him to stay for at least 30 days to allow the employer to find a replacement. The claimant accepted to stay and continued working for the employer until February 15, 2025.

14. On February 15, 2025, the employer called the claimant into a meeting and asked him to hand over his equipment because that would be his last day. The employer stated that they were terminating his position.
15. The claimant quit his job because he felt that the workload assigned to him by the employer was excessive.
16. The claimant applied for Unemployment Insurance (UI) benefits with the Massachusetts Department of Unemployment Assistance (DUA), with an effective date of February 16, 2025.
17. In his different DUA questionnaires, these are some of the claimant's responses:

“.....I resigned because the work load was impacting my family life and was causing health issues..... No letter was requested by employer since resignation was done in a in person meeting..... I stayed longer than 2 weeks I gave to help with the workload to ensure I left in good terms for potential other job opportunities but never was offered a more reasonable work like balance opportunity. The workload was unbearable for 1 person..... I was asked to stay longer so I thought we would work out a healthier work load balance. I had a great relationship with my staff and residents. I thought I was saving my job by continuing to work past the 2 weeks I gave..... Asked me to stay an additional 30 days to help find a replacement and I agreed to stay...”
18. The DUA disqualified the claimant from receiving UI benefits. The claimant appealed the disqualification.

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. As discussed more fully below, we agree with the review examiner's legal conclusion that that the claimant is not eligible for benefits.

Because the claimant quit his position with the employer, 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, these provisions of the statute specify that the claimant bears the burden to show that he is eligible for unemployment benefits.

Although the findings show that the claimant's health was negatively affected by his working conditions, he is not alleging that he left his employment due to urgent, compelling, and necessitous reasons. Finding of Fact # 8. Rather, the claimant left his employment because the employer had assigned an excessive amount of work to him. Finding of Fact # 15. Because the claimant quit his job due to the employer's conduct, we consider whether the claimant's separation was 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).

Soon after the start of the claimant's employment, two managers separated from the employer, which left the claimant to take on some of their duties. Finding of Fact # 6. The claimant began to feel overwhelmed by the increased workload, as he was forced to work an average of 10 to 12 hours per day, he often had to stay late to cover shifts, and he had to perform extra work at home checking emails and communications, along with addressing late night emergencies on a more frequent basis. Findings of fact ## 7–8.

The review examiner concluded that the increased workload imposed on the claimant after the other two managers left did not constitute good cause to leave his employment. Rather, she concluded that the claimant was merely experiencing general work dissatisfaction, which is not a qualifying reason to leave employment. See Sohler v. Dir. of Division of Employment Security, 377 Mass. 785, 789 (1979) (general and subjective dissatisfaction with working conditions does not provide good cause to leave employment under G.L. c. 151A, § 25(e)(1)). We disagree with the review examiner's reasoning and conclusion on the matter of good cause.

Leaving employment due to a detrimental change by the employer of the conditions of employment constitutes leaving for good cause attributable to the employer within the meaning of G.L. c. 151A, § 25(e)(1). See Graves v. Dir. of Division of Unemployment Assistance, 384 Mass. 766 (1981). Here, the claimant's job responsibilities increased substantially after the two managers left, and some of their duties fell to him. As a result of the increased workload, the claimant was not able to get enough sleep, he felt exhausted, overburdened, and fatigued, and he began to experience anxiety about meeting deadlines and the potential impact on his health. Finding of Fact # 8. This finding establishes that the changes to the conditions of the claimant's employment were detrimental to his health. See Pacific Mills v. Dir. of Division of Employment Security, 322 Mass. 345, 349-350 (1948). Thus, the claimant has established that he left his employment for good cause attributable to the employer.

However, establishing good cause alone is insufficient to qualify for benefits. 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). Here, the claimant did not take reasonable steps to preserve his employment, as he did not express his concerns about the excessive workload to the employer

prior to giving notice.¹ Finding of Fact # 12. Further, there is no indication in the record that attempting to preserve his employment would have been futile.

We, therefore, conclude as a matter of law that the claimant did not meet his burden to show that he resigned from his position for good cause attributable to the employer under G.L. c. 151A, § 25(e)(1).

The review examiner's decision is affirmed. The claimant is denied benefits for the week beginning February 16, 2025, 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 - June 30, 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.

SVL/rh

¹ We note that, while the claimant did seek therapy services from the employer's therapy line due to the detrimental effects of his working conditions, we can reasonably infer that these services were confidential and that his issues were not shared with the employer.