

Although the claimant received the disqualifying quit determination, she failed to timely file her hearing request, claiming that she did not receive notice from the DUA to check her UI Online account for correspondence. Because the review examiner found that the DUA did timely send the requisite notice to the claimant and because there is no indication in the record that another allowable reason to file an appeal after 30 days under 430 CMR 4.15 exists, held the claimant did not demonstrate good cause for her late appeal within the meaning of G.L. c. 151A, § 39(b).

**Board of Review
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Issue ID: 334-FHJ5-6DHM

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 the claimant a hearing on the merits in connection with a determination to deny benefits. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

The claimant filed a claim for unemployment benefits with an effective date of January 12, 2025. On February 4, 2025, the DUA issued a notice of disqualification pursuant to G.L. c. 151A, § 25(e)(1) (quit determination). The claimant appealed this quit determination to the DUA hearings department on March 31, 2025, 55 days after it was issued. On April 2, 2025, the DUA issued a determination denying a hearing on the merits of the quit determination, stating that the claimant did not present an allowable reason to file a late appeal after the statutory deadline (late appeal determination). The claimant appealed the late appeal determination to the DUA hearings department. Following a hearing on the merits attended by the claimant, the review examiner affirmed the agency's late appeal determination in a decision rendered on May 6, 2025. We accepted the claimant's application for review.

A hearing on the merits of the quit determination was denied after the review examiner determined that, pursuant to G.L. c. 151A, § 39(b), the claimant did not have good cause for filing her appeal past the ten-day deadline. After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal, we remanded the case to the review examiner to make subsidiary findings of fact and a credibility assessment pertaining to whether the claimant had received notice of the quit determination. Following the remand hearing, the review examiner has issued consolidated findings of fact. 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 did not have good cause for filing her appeal of the quit determination past the ten-day statutory appeal deadline, is supported by substantial and credible evidence and is free from error of law, where, after remand, the review examiner found that the claimant received a timely email from the DUA instructing her to check her UI Online account.

Findings of Fact

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

1. The claimant filed a claim for unemployment insurance benefits effective 1/12/2025.
2. The claimant's correspondence preference at the time of filing was electronic. The claimant's correct personal email address is on file with the Department of Unemployment Assistance (DUA).
3. On 2/3/2025, the claimant called the DUA and spoke with a representative (DUA representative A). DUA representative A informed the claimant that she should continue to certify for benefits weekly, and to check her UI Online inbox for updates on her claim.
4. On 2/4/2025, the DUA electronically issued the claimant a Notice of Disqualification (notice) to the claimant's UI Online inbox.
5. The claimant received the notice when it was properly issued to her UI Online inbox on 2/4/2025.
6. On or about 2/4/2025, an email notification was sent to the claimant's correct email address informing her that there was correspondence to review on her DUA account.
7. The notice informed the claimant she was disqualified from receipt of unemployment benefits pursuant to Section 25(e)(1) for the week beginning 1/5/2025 and until she has had eight (8) weeks of work and earned an amount equivalent to or in excess of eight (8) times her weekly benefit amount.
8. The notice included instructions on how to file an appeal and the time parameters within which to do so.
9. An appeal of the notice was due by 2/14/2025.
10. The claimant did not view her UI Online inbox on or after 2/4/2025.
11. The claimant received all DUA notifications to her personal email address when there was correspondence waiting for her in her UI Online inbox, including the notice. The claimant never had any issues receiving email notifications of DUA correspondence to her email address.

12. A DUA representative did not discourage the claimant from filing an appeal to the notice by 2/14/2025. A DUA representative did not discourage the claimant from filing an appeal to the notice before 3/31/2025.
13. The claimant did not seek help from a DUA representative related to the notice, her claim, or about viewing her UI Online inbox until she called the DUA on 3/31/2025.
14. On 3/31/2025, the claimant called the DUA and spoke with a representative (DUA representative B). DUA representative B informed the claimant that the notice was issued on 2/4/2025. DUA representative B did not tell the claimant that it was not worth appealing the notice.
15. The claimant appealed the notice electronically on 3/31/2025.
16. 3/31/2025 was the 55th calendar day following 2/4/2025.

[Credibility] Assessment:

While the claimant contended that she did not receive an email message to her personal email account informing her that there was correspondence in her UI Online account when the DUA issued the notice on 2/4/2025, this was not credible as the claimant testified that she previously had no issues with receiving such notifications from the DUA. Specifically, the claimant testified “any other email that they’ve [the DUA] has sent to me, I’ve gotten.” Additionally, the claimant testified that the email address on file with the DUA was correct and current. It is not credible that the claimant did not receive a notification from the DUA on or about 2/4/2025 about the notice.

Likewise, despite the claimant’s contention that she did not know she had to regularly check her UI Online inbox, this testimony was not credible. The claimant confirmed that on 2/3/2025 (the day before the notice was issued), DUA representative A instructed the claimant to monitor her UI Online inbox.

Despite the claimant’s testimony that DUA representative B informed her that it was not worth appealing the notice, this was allegedly communicated to the claimant on 3/31/2025, which was not the reason the claimant did not file a timely appeal. The claimant did not dispute that a DUA representative did not discourage her from filing a timely appeal between 2/4/2025 and 3/30/2025.

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 consolidated 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 consolidated findings of fact and deems them to be supported by substantial and credible evidence. We further believe that the review

examiner's credibility assessment is reasonable in relation to the evidence presented. As discussed more fully below, we agree with the review examiner's legal conclusion that the claimant is not entitled to a hearing on the merits of her quit determination.

G.L. c. 151A, § 39(b), provides, in pertinent part, as follows:

Any interested party notified of a determination may request a hearing within ten days after delivery in hand by the commissioner's authorized representative, or mailing of said notice, unless it is determined . . . that the party had good cause for failing to request a hearing within such time. In no event shall good cause be considered if the party fails to request a hearing within thirty days after such delivery or mailing of said notice. . . .

Pursuant to G.L. c. 151A, 39(b), the claimant had ten days to appeal the February 4, 2025, notice of disqualification. Since Consolidated Findings ## 4, 15, and 16 show that the claimant did not file the appeal until 55 days after the issuance of the underlying determination, we consider 430 CMR 4.15, which provides that the thirty-day filing deadline shall not apply if the claimant can establish good cause. This regulation states, in pertinent part:

The 30 day limitation on filing a request for a hearing shall not apply where the party establishes that:

- (1) A Division employee directly discouraged the party from timely requesting a hearing and such discouragement results in the party believing that a hearing is futile or that no further steps are necessary to file a request for a hearing;
- (2) The Commissioner's determination is received by the party beyond the 30 day extended filing period and the party promptly files a request for hearing;
- (3) The Commissioner's determination is not received and the party promptly files a request for a hearing after he or she knows that a determination was issued.
- (4) An employer threatened, intimidated or harassed the party or a witness for the party, which resulted in the party's failure to file for a timely hearing.

The claimant contended at the hearing that she did not receive an email from the DUA to her personal email account notifying her that she had important documents in her UI Online Inbox, which required review. The right to receive notice and an opportunity to be heard is a fundamental right. The Due Process Clause of the Fourteenth Amendment prohibits the States from depriving any person of property without providing notice and an opportunity to be heard. Dusenbery v. United States, 534 U.S. 161, 167 (2002). Specifically, it requires "notice reasonably calculated, under all of the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950) (further citations omitted).

After we remanded for subsidiary findings from the record, the review examiner found that the DUA did send the requisite notice to the claimant's personal email account on or about February 4, 2025. Consolidated Finding # 6. The review examiner arrived at this finding after determining that the claimant's contention that she did not receive notice was not credible, because the claimant testified that she had not previously experienced any issues receiving emails from the DUA. We

further note that UI Online, the DUA's previous record-keeping system, contains information showing that the email notification was timely sent to the claimant when the February 4, 2025, notice of disqualification was issued to her. Since the claimant received a DUA communication to look for the notice of disqualification, she received the requisite notice necessary to timely appeal.

Because the claimant received the requisite notice to timely appeal, and there is no indication in the record of any other circumstances listed under 430 CMR 4.15, which would allow her to file an appeal beyond 30 days, the claimant has failed to establish good cause for filing her late appeal of the disqualifying determination.

We, therefore, conclude as a matter of law that the claimant is not entitled to a hearing on the merits of the disqualifying quit determination, because she failed to establish an allowable reason for filing a hearing request after the statutory deadline pursuant to G.L. c. 151A, § 39(b), and 430 CMR 4.15.

The review examiner's decision is affirmed. The claimant is not entitled to a hearing on the merits of the quit determination, dated February 4, 2025, (Issue ID # 334-FHJ6-DF8T, formerly Issue ID # 0085 0159 17).

BOSTON, MASSACHUSETTS
DATE OF DECISION - July 31, 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