

The claimant had an urgent, compelling and necessitous reason to quit his employment as a heavy equipment operator, as his anxiety prevented him from performing a portion of his required job duties. Further, the claimant took reasonable steps to preserve his employment when he sought medical treatment for his anxiety and expressed his concerns to the employer, but the employer was unable to accommodate his restrictions. Held the claimant is eligible for benefits pursuant to G.L. c. 151A, § 25(e)(1).

**Board of Review
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Issue ID: 334-FHJ5-P3MK

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 October 21, 2024. He filed a claim for unemployment benefits with the DUA, effective October 20, 2024, which was denied in a determination issued on November 15, 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 January 30, 2025. We accepted the employer's application for review.

Benefits were awarded after the review examiner determined that the claimant involuntarily left employment for urgent, compelling, and necessitous reasons and, thus, was not disqualified under G.L. c. 151A, § 25(e)(1). After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the employer's appeal, we remanded the case to the review examiner to obtain additional evidence pertaining to the claimant's work duties and medical treatment. Both parties attended the initial remand hearing and the reconvened remand hearing. Thereafter, the review examiner issued her 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's anxiety constituted an urgent, compelling and necessitous reason to leave work, is supported by substantial and credible evidence and is free from error of law, where the claimant's anxiety prevented him from performing a portion of his job duties as expected by the employer.

Findings of Fact

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

1. In 2022, the claimant worked as a heavy equipment operator with an unrelated employer (Company A).
2. On an unknown date in 2022, the claimant was involved in an accident while he was performing his duties with Company A. The claimant was operating a dump truck on a slope. The parking brake on the dump truck malfunctioned, and the dump truck began to slide down the slope and into an excavator. The claimant felt as though he was “going to die” during this incident (incident).
3. Company A did not require the claimant to use a dump truck after the incident.
4. In approximately December, 2023, the claimant’s primary care provider diagnosed him with anxiety.
5. On an unknown date, two (2) to three (3) months before April, 2024, the claimant began seeing a therapist to help treat his anxiety.
6. In approximately March, 2024, the claimant was prescribed anxiety medication by his medical provider for the first time. The anxiety medication made the claimant feel “weird,” and he stopped taking the medication.
7. On an unknown date before 4/1/2024, the employer, a regional district that owns and operates a landfill, had an employee that flipped a lawn mower multiple times on the slopes of the landfill and was hospitalized.
8. During the in-person interview the claimant had at the employer, the claimant informed the employer’s executive director (Director) that there was an incident with Company A. The claimant stated that the incident involved equipment failure due to improper break [sic] maintenance, and that he did not feel safe.
9. The claimant worked as a full-time heavy equipment operator for the employer between 4/1/2024 and 10/21/2024, when he separated.
10. The claimant was supervised by the operations manager (Manager).
11. As a heavy equipment operator, the claimant was required to operate heavy equipment, including dump trucks, on the slopes of the landfill to bring material to the top (flat surface) of the landfill.
12. The slopes of the landfill have a “moderate” incline of between 30-40 degrees.
13. In approximately the third week of April, 2024, the claimant was instructed to operate the dump truck on the slopes of the landfill for the first time since the incident.

14. The claimant began exhibiting symptoms of anxiety, including shaking, [and] feeling hot and dizzy. The claimant did not think it was safe for him to operate the dump truck while he experienced these symptoms.
15. The claimant informed the Manager about the anxiety and symptoms he had while he operated the dump truck on the slopes of the landfill.
16. The claimant informed the Manager that he did not think it was safe for him to operate the dump truck on the slopes of the landfill because of the anxiety symptoms he experienced.
17. The Manager informed the claimant that they would not make him do anything he was uncomfortable with.
18. The claimant did not operate the dump truck on the slopes of the landfill at the employer between the third week in April, 2024 and the end of September, 2024.
19. At the end of September, 2024, the Manager instructed the claimant to use the dump truck on the slopes of the landfill. The claimant informed the Manager that he did not feel safe using the dump truck on the slopes of the landfill because of the incident and the symptoms he exhibited during the third week of April, 2024.
20. The Manager informed the claimant that he would “have to get over it.”
21. On an unknown date in September, 2024, the claimant sought medical treatment at a hospital emergency department due to the stress he was experiencing because of the employer instructing him to operate a dump truck on the slopes of the landfill. The claimant provided the Manager with a copy of the medical note he received from the emergency department.
22. On 10/16/2024, the claimant was informed that he was scheduled to operate the dump truck on the slopes of the landfill during his shift on 10/17/2024.
23. The claimant began to stress out “at the thought of going back up there,” and he began to shake. The claimant had a “breakdown” while he was in the Manager’s office, and he felt like he was going to have a heart attack.
24. The claimant informed the Manager that he could not finish his shift due to the anxiety symptoms he was experiencing. The claimant went home before the end of his shift.
25. The claimant took time off from work from 10/16/2024 through 10/21/2024 due to the anxiety symptoms that he was exhibiting when he was asked to use the dump truck on the slopes of the landfill.

26. On 10/21/2024, the claimant spoke with the Director, who informed the claimant that they would have to part ways with the claimant if he could not perform the duties of a heavy equipment operator, which included using the dump truck on the slopes of the landfill.
27. The claimant asked the Director if he could continue to work in a different position, or in the same position without having to operate the dump truck on the slopes of the landfill. The Director informed the claimant that it was not an option.
28. This was the first time the claimant spoke directly to the Director about his concerns with using the dump truck on the slopes of the landfill. The claimant did not specify to the Director that his issue was only with reversing on the slopes of the landfill in the dump truck. The claimant spoke to the Manager about his issue, and the claimant was “under the impression” that the Manager informed the Director.
29. The claimant resigned from his employment effective immediately because he could no longer perform the duties of a heavy equipment operator given the medical issues he was experiencing when he was required to operate the dump truck on the slopes of the landfill.
30. The only job duty the claimant had an issue with was driving the dump truck in reverse going downhill on the slopes of the landfill.
31. The claimant did not request a formal leave of absence before he resigned.
32. Throughout his employment with the employer, between April, 2024 and September, 2024, the claimant saw his therapist four (4) or five (5) times.
33. Throughout his employment with the employer, the Director and the Manager did not request medical documentation from the claimant related to his anxiety.
34. At the time of the initial remand hearing, on 4/4/2025, the claimant had not resumed taking medication for his anxiety. The claimant was waiting to be seen by his therapist and then be seen by another medical provider that can prescribe him new medication for his anxiety.
35. On 4/8/2025, the claimant contacted his primary care provider’s office and requested a note that stated that he was diagnosed with anxiety to provide the Board of Review. The primary care provider informed the claimant that the note would be ready for pickup by 4/9/2025.
36. The claimant has a medical note from his primary care provider dated 4/9/2025. The medical note states, “The above patient is a patient under my medical care. He has a diagnosis of anxiety. Please call our office if you have any questions.”

[Credibility] Assessment:

The claimant credibly testified about the incident that occurred in 2022 with Company A. The claimant's testimony related to what occurred during the incident was not disputed, as the Director did not have firsthand knowledge of the events that occurred before the claimant began working with the employer in April, 2024. The Director testified that the claimant informed him during the interview that there was an incident that occurred in 2022 involving equipment failure at his previous employer and that he did not feel safe because of the incident. While this does not confirm the claimant's testimony, it corroborates the claimant's testimony about the incident and how he felt unsafe after the incident.

Additionally, the claimant provided credible testimony related to his anxiety diagnosis and the treatment he sought for his medical condition. Based on the claimant's consistent testimony throughout the hearings on this matter, it is reasonable that the claimant experienced anxiety symptoms when he operated a dump truck in reverse on the slopes of the employer's landfill due to the incident he experienced with his previous employer in 2022. The claimant provided a medical note dated 4/9/2025, that stated he "has a diagnosis of anxiety." The Director testified that he did not have firsthand knowledge of the claimant's anxiety diagnosis.

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. After such review, the Board adopts the review examiner's consolidated findings of fact except as follows. We reject the portion of Consolidated Finding # 28, which states that the claimant did not specify to the director that his only issue operating the dump truck was reversing on the slopes of the landfill. During cross-examination in the initial hearing, the director confirmed that the claimant did specify to him that his only issue was reversing the dump truck downhill on the slopes of the landfill.¹ In adopting the remaining findings, we deem 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, and, as discussed more fully below, we agree with the review examiner's legal conclusion that the claimant is 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

¹ We have supplemented the findings of fact, as necessary, with the unchallenged evidence before the review examiner. 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).

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.

Because nothing in the record suggests that the employer did anything unreasonable to cause the separation, the claimant's resignation is not 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). Alternatively, we consider whether the claimant's separation was due to urgent, compelling, and necessitous reasons.

Our standard for determining whether a claimant's reasons for leaving work are urgent, compelling, and necessitous has been set forth by the Supreme Judicial Court. We must examine the circumstances in each case and evaluate "the strength and effect of the compulsive pressure of external and objective forces" on the claimant to ascertain whether the claimant "acted reasonably, based on pressing circumstances, in leaving employment." *Reep v. Comm'r of Department of Employment and Training*, 412 Mass. 845, 848, 851 (1992).

"[A] 'wide variety of personal circumstances' have been recognized as constituting 'urgent, compelling and necessitous' reasons under" G.L. c. 151A, § 25(e), "which may render involuntary a claimant's departure from work." *Norfolk County Retirement System v. Dir. of Department of Labor and Workforce Development*, 66 Mass. App. Ct. 759, 765 (2009), *quoting Reep*, 412 Mass. at 847 (1992). Medical conditions are recognized as one such reason. *See Dohoney v. Dir. of Division of Employment Security*, 377 Mass. 333, 335–336 (1979) (pregnancy or a pregnancy-related disability, not unlike other disabilities, may legitimately require involuntary departure from work).

Here, the claimant was diagnosed with anxiety in approximately December, 2023. Consolidated Finding # 4. During prior employment, the claimant experienced malfunctioning brakes while operating a dump truck on a landfill slope, which made him feel unsafe. Consolidated Finding # 2. Due to this prior incident and his anxiety, when the claimant first operated a dump truck on the instant employer's slopes, he began to experience anxiety symptoms, including shaking and dizziness, when reversing downhill on the slopes. Consolidated Finding # 14. The claimant was able to operate the dump truck on the slopes in every capacity except reversing downhill, as that was the position he was in when he experienced the malfunctioning brakes at his prior employment. Consolidated Findings ## 2 and 30. Because the claimant was unable to perform a mandatory portion of his duties due to his anxiety, he has demonstrated urgent, compelling, and necessitous reasons to leave his job.

However, our inquiry does not stop here. "Prominent among the factors that will often figure in the mix when the agency determines whether a claimant's personal reasons for leaving a job are so compelling as to make the departure involuntary is whether the claimant had taken such 'reasonable means to preserve [his] employment' as would indicate the claimant's 'desire and

willingness to continue [his] employment.”” Norfolk County Retirement System, 66 Mass. App. Ct. at 766, *quoting Raytheon Co. v. Dir. of Division of Employment Security*, 364 Mass. 593, 597–98 (1974).

The review examiner found that the claimant sought medical treatment, including seeing a therapist to treat his anxiety. Consolidated Finding # 32. The review examiner further found that the claimant explained to his manager in April, 2024, that his anxiety affected his ability to operate the dump truck on the slopes. Consolidated Findings ## 15–16. After this conversation, the claimant was not required to operate the dump truck again until September, 2024. Consolidated Findings ## 17–18. In September, the claimant experienced the same symptoms when asked to operate the dump truck, and he expressed his concerns again to the manager. Consolidated Finding # 19. The manager informed the claimant that he would have to get over it. Consolidated Finding # 20.

In October, 2024, the claimant again informed the manager and later the director about his concerns, including asking the director for accommodations. Consolidated Findings ## 22, and 26–28. Nonetheless, the director informed the claimant that he was required to operate the dump truck on the slopes in every capacity to continue employment. Consolidated Findings ## 26–27. The above consolidated findings show that the claimant took reasonable steps to remain employed prior to quitting, but the employer was unable to accommodate his medical restrictions.

We, therefore, conclude as a matter of law that the claimant has met his burden to show that he involuntarily resigned from the employer due to urgent, compelling, and necessitous circumstances, and he is eligible for benefits pursuant to G.L. c. 151A, § 25(e)(1).

The review examiner’s decision is affirmed. The claimant is entitled to receive benefits for the week beginning October 20, 2024, and for subsequent weeks if otherwise eligible.

BOSTON, MASSACHUSETTS
DATE OF DECISION - July 28, 2025



Paul T. Fitzgerald, Esq.
Chairman



Michael J. Albano
Member

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.

SVL/rh