

In a text message sent to the employer, the claimant indicated that he left his job due to a personality conflict with a co-worker. Held that this conflict did not constitute good cause attributable to employer and the claimant is not eligible for benefits pursuant to G.L. c. 151A, § 25(e)(1).

**Board of Review
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Issue ID: 334-FHJ7-N7J3

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 separated from his position with the employer on January 10, 2025. He filed a claim for unemployment benefits with the DUA, effective February 2, 2025, which was denied in a determination issued on March 4, 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 May 7, 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). 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 information regarding the circumstances of the claimant's separation. Both parties attended the 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 was eligible for benefits because the employer caused him to reasonably believe he had been discharged, is supported by substantial and credible evidence and is free from error of law.

Findings of Fact

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

1. The claimant worked as an Apprentice Journeyman for the employer, a plumbing and heating company, from 7/8/24 until he separated from the employer as of 1/17/25. He had last performed work on 1/8/25.
2. The claimant worked full-time, 40 hours a week, earning \$42.00 an hour.

3. On 1/7/25, the claimant had a family emergency and went to the hospital to be with his mother who had been rushed there. He never went to work on this day.
4. The claimant returned to his home at 1:30 p.m. and sent the Office Manager a text message informing him of what was going on with his mother and asked him to tell the Owner. He apologized to the Office Manager that he did not respond to his attempted communications and that it was because he had left his phone at home. The claimant told the Office Manager he would reach out to the employer later or the next day. The Office Manager said "ok" to the claimant.
5. The claimant messaged the Owner to tell him his mother had blood clots, and minor heart attacks while at the hospital and that she needed to have a stent put into her head.
6. On 1/8/25, the claimant was going to drop off the company vehicle so another employee could use it since he was going to need approximately a week to two weeks off to tend to his mother.
7. The claimant believed that everything was ok, and that the employer was aware he was going to take a week or two off. There was not much work at the company at this time.
8. The claimant subsequently went back to the hospital after dropping off the vehicle. On January 10, 2025, at 7:24 a.m., the claimant received a text message from the Owner stating, "Please bring in the big Milwaukee big tubing cutter that is missing off the truck along with shop key and hand tubing cutters from the med gas kit that are missing. All items were assigned to you last. Thank you". The claimant was offended and did not respond back for approximately one hour.
9. When the claimant responded, he told the Owner he never stole anything and maybe he needed to speak to another employee who is in the office with him. The Owner text messaged the claimant back asking him if that was why he left. The Owner thought the claimant left his employment because he had dropped off the company van and was unable to contact the claimant the day before. He had asked the claimant twice on 1/9/25 and once on 1/10/25, to call him with no response.
10. The claimant did respond to the Owner stating, "No I left bcuz (sic) you have a guy going on my jobs telling me what to do when he has zero idea what he's doing. I went to school for 5 years to master my craft. I learned from some of the best. And I worked my ass off to know as much as I do. And you have a guy talking down to me on any job I've ever been at. I don't care what anyone has ever done in there past. God knows I've made my mistakes in my life. But that's why I don't want to work at [Employer] anymore."

11. The claimant stated further to the Owner “Ill call you in a few. My mother is in the hospital dying. I do have a lot on my mind right now so give me a few plz (sic)”. The Owner replied “Sure”. The claimant sent another text message to the Owner stating, “Also I returned the van so you could utilize it while I was gone for a week. No point in paying for a van that isn’t making you money. I’m the youngest of 4 but I’m the only one who would be able to set up accommodations for my mother if the worst happens. And you never gave me a shop key slav, Ill call you later today tho (sic)”. And the Owner replied “Ok”. There was no further conversation between the two.
12. On 1/10/25 at 10:30 a.m., the Office Manager sent the claimant a text message stating, “Hi [Claimant] Good morning sorry to hear that you left. I wish you the best in your endeavors. Good luck!!” The Office Manager sent the claimant this text message because he had been told that morning by the Owner that the claimant had not shown up for work and that he texted the claimant but he never replied. The Owner had also told the Office Manager that the claimant had quit. The claimant did not respond to the text message that the Office Manager had sent him on 1/10/25 at 10:30 a.m.
13. On Wednesday 1/15/25, the Owner and his Immediate Supervisor, who is the Office Manager, sent the claimant a text message asking him to return the codebook that was given to him when he started.
14. On 1/16/25, the claimant brought the items into the employer. He was supposed to speak to the Owner but was not able to because he was 45 minutes late and the Owner had left.
15. On 1/17/25, the claimant sent the Office Manager a text message asking what was going on. The Office Manager responded back that he did not know why he quit but would do his best to accommodate him. The claimant told the Office Manager he did not quit and that initially he still thought he had a job but when they did not respond or reach out to him, he believed he had been terminated.
16. Prior to his separation, the claimant had not received any disciplinary action.
17. The claimant did not take any steps to preserve his employment.

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 # 1 that states that the claimant separated from the employer on January 17, 2025. As discussed below, this is unsupported by the record. 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 entitled to benefits.

During the initial and remand hearings, the parties disagreed about whether the claimant was discharged or resigned. There is no dispute that the claimant stopped going to work, and that the owner sent the claimant a text message asking why. *See Consolidated Finding # 9*. If the employer had discharged the claimant, the owner would not have asked this question. In the text message that the claimant sent to the owner in response, he wrote that he had left because the employer had a guy who had "zero idea what he's doing" going on the claimant's jobs, telling the claimant what to do and talking down to the claimant. The claimant explicitly stated, "that's why I don't want to work at [Employer] anymore." *See Consolidated Finding # 10*. Copies of the text messages that were entered into the record show that all of these messages were sent on January 10, 2025. *See Remand Exhibit 9*.¹ Thus, the record shows that the claimant resigned on January 10, 2025.

Because the claimant resigned, his eligibility for benefits is properly analyzed pursuant to the following provisions of G.L. c. 151A, § 25(e), which provide, in pertinent part:

[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 provide that the claimant bears the burden to prove good cause attributable to the employer or urgent, compelling, and necessitous circumstances.

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. Conlon v. Dir. of Division of Employment Security, 382 Mass. 19, 23 (1980).

The claimant explained his reason for resigning in his January 10, 2025, text message to the owner. Specifically, he told the owner he had left because the employer had someone going on the claimant's jobs who did not know what he was doing, talking down to the claimant and telling him what to do. *See Consolidated Finding # 10*. Given this stated reason, we need not consider any other issues which the claimant raised, including his need to care for his ill mother or that he felt he was being accused of stealing. *See Consolidated Findings ## 3, 5, 8, 9, and 11*.

From the claimant's statement, it is evident that the claimant did not get along with this coworker. However, nothing in the record shows that the coworker interfered with the claimant's ability to perform his work. Even if the coworker had, our focus is on the employer's behavior. Here, there is no evidence that the employer was even aware of the problem. Thus, the claimant has failed to

¹ Remand Exhibit 9, the employer's appeal to the Board of Review with screenshots of text messages attached, is part of the unchallenged evidence introduced at the hearing and placed in the record, and it is 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).

show any unreasonable action or inaction taken by the employer that created good cause attributable to the employer for the claimant to resign.

Even assuming, *arguendo*, that the personality conflict between the claimant and coworker constituted good cause attributable to the employer to leave, the claimant is not eligible for benefits because he did not take reasonable steps to preserve his employment before resigning. 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).

Nothing in the record indicates that the claimant had informed the employer about his issues with his coworker before sending the text message about his reason for leaving on January 10, 2025. Nor does anything in the record indicate that an attempt by the claimant to address this issue and preserve his employment would have been futile.

Alternatively, we consider whether the claimant's separation was due to urgent, compelling and necessitous reasons. "[A] 'wide variety of personal circumstances' have been recognized as constituting 'urgent, compelling and necessitous' reasons under G.L. c. 151A, § 25(e)(1), 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 v. Comm'r of Department of Employment and Training, 412 Mass. 845, 847 (1992).

In this case, the claimant's mother's critical illness could constitute an urgent, compelling, and necessitous reason for the claimant's separation. However, as discussed above, this was not the reason the claimant resigned. Therefore, the claimant has not shown that he had urgent, compelling, and necessitous reasons for leaving his employment.

We, therefore, conclude as a matter of law that the claimant has not met his burden to show that he resigned his position for good cause attributable to the employer or for urgent, compelling, and necessitous reasons under G.L. c. 151A, § 25(e).

The review examiner's decision is reversed. The claimant is denied benefits for the week beginning January 5, 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 - October 20, 2025



Charlene A. Stawicki, Esq.
Member



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

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.

REB/rh