When the employer eliminated the claimant's teacher position, the employer gave her a co-teaching position, then reassigned her again due to the claimant's frustration with the co-teacher. However, given the claimant's neurological condition, she struggled in the last assignment, which was split between two classrooms, because she had to move from one classroom to the other. Even though the record indicates that this latest assignment was unsuitable, the Board denied benefits pursuant to G.L. c. 151A, § 25(e)(1), because she failed to make reasonable efforts to preserve her job before leaving.

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Issue ID: 334-FHJF-L4N3

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 her position with the employer on November 13, 2024. She filed a claim for unemployment benefits with the DUA, effective December 1, 2024, which was approved in a determination issued on March 4, 2025. The employer appealed the determination to the DUA hearings department. Following a hearing on the merits attended by both parties, the review examiner affirmed the agency's initial determination and awarded benefits in a decision rendered on April 18, 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 the claimant was eligible for benefits because a change in her teaching assignment created good cause attributable to the employer to resign, 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 claimant worked full time for the employer, a public school, as a math interventionist and then a math teacher from August 21, 2023, through November 13, 2024.

2. Prior to working for the employer, the claimant had worked as a math interventionist for 8 years.

3. The claimant was hired by the employer as a full-time math interventionist.

4. At the time she was hired, the claimant understood the math interventionist position to be a permanent position.

5. The claimant has a permanent, progressive neurological condition that affects her muscle strength, balance, endurance, and significantly reduces her mobility. The claimant's condition requires her to use either a walker or a cane at all times.

6. The claimant did not disclose her condition to the employer at the time she was hired.

7. From the date she was hired, the claimant parked in the handicapped parking spot at the school, used a walker at all times, and always used the elevator.

8. The claimant's job responsibilities as a math interventionist were to sit in a classroom where 5th grade students would come to her throughout the day to receive intensive instruction in mathematics. The claimant wrote lesson plans for the students based upon their strengths and weaknesses.

9. As a math interventionist, the claimant's assigned classroom did not change.

10. Throughout the entire time she worked as an interventionist, she was excused from activities that required her to go up or down stairs, participate in field trips with students, or move her belongings from room to room.

11. The claimant worked a summer school session before the start of the school year in 2024.

12. At the beginning of August 2024, prior to the start of the school year, the claimant was told by the employer that her position as math interventionist was not going to be offered for the 2024/2025 school year.

13. The employer offered the claimant a position co-teaching 5th grade mathematics with another teacher who was not very experienced (Teacher A).

14. The position of teacher requires the teacher to move around the desks and students within the room.

15. The claimant accepted the offer to co-teach the 5th grade class.

16. The claimant did not receive an increase or reduction in pay.

17. The claimant began moving her class supplies to the assigned 5th grade classroom during the "prep week" which is the week just before the start of the school year.

18. The claimant and the claimant [sic] and Teacher A did not see eye to eye.

19. The claimant worked with Teacher A for approximately 2 to 3 weeks.

20. The claimant spoke to the principal about her frustration with Teacher A.

21. At a point between September 6th and September 9th, the principal reassigned the claimant to teach math classes for a teacher on leave and another teacher opening.

22. The claimant's new assignment was to work in a 2nd grade classroom in the mornings until 11:00 a.m., then to move to a different 4th grade classroom for the remainder of the day.

23. The claimant struggled with physically moving between the classrooms each day.

24. The principal expected the claimant to substitute teach classes based upon the needs of the school.

25. On or about November 8, 2024, the claimant learned from another teacher (Teacher B) that she was going to be taking maternity leave within the school year.

26. The employer expected the claimant to substitute for other teachers where necessary.

27. The claimant feared the employer would require her to take on some of the teaching responsibilities of Teacher B.

28. The claimant did not request a leave of absence.

29. A leave of absence was available to the claimant.

30. The claimant did not request a transfer.

31. Transfers are only available to teachers in March or April each year.

32. The claimant did not formally request accommodations from the employer's human resources department (HR).

33. On November 13, 2024, the claimant submitted a letter of resignation to the principal and assistant principal by e-mail. The letter stated the claimant's resignation was effective immediately due to "a multitude of factors."

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. 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 her employment, we analyze her 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. . . .

The express language of these provisions assigns the burden of proof to the claimant. The review examiner concluded that the claimant met her burden. We disagree.

The findings establish that the claimant worked for the employer as a math interventionist. *See* Findings of Fact ## 1 and 3. Prior to the start of the 2024–25 school year, the employer notified the claimant that the position of math interventionist was no longer going to be offered. *See* Finding of Fact # 12. However, the employer offered the claimant the position of co-teacher instructing students in 5th grade mathematics. *See* Finding of Fact # 13. Subsequently, the claimant was reassigned to work in a 2nd grade classroom in the mornings and a different classroom later in the afternoon to instruct 4th graders. *See* Findings of Fact ## 21 and 22. On November 13, 2024, the claimant resigned because she struggled with moving between the classrooms each day and she feared that the employer would reassign her to a different classroom to substitute for another teacher, who was going on maternity leave. *See* Findings of Fact ## 23–27, and 33.

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).

At the time that the claimant was notified that her position of math interventionist was not renewed for the new school year, the employer gave the claimant a new assignment co-teaching a 5th grade class with no reduction in pay. *See* Findings of Fact ## 12 and 16. This was also a full-time

teaching position. *See* Findings of Fact ## 15 and 16.[1] We see nothing in the record that indicates this new assignment was unreasonable.

When the claimant informed the principal that she and her co-teacher, Teacher A, did not see eye-to-eye and that she was frustrated with Teacher A, the employer reassigned the claimant to teach a 2nd grade class in the morning and a 4th grade class in the afternoon. *See* Findings of Fact ## 18–22. Again, we believe that the employer's response was a reasonable way to address the claimant's complaint about her co-teaching assignment.

The claimant further contends that she quit because she feared that the employer would require her to take on some of the responsibilities of Teacher B. *See* Finding of Fact # 27. Specifically, the employer expected the claimant to now substitute for other teachers where necessary, and, at some point in early November, the claimant learned that Teacher B was going on maternity sometime during the school year. *See* Findings of Fact ## 25 and 26. However, given the ambiguity about when this maternity leave would take place and the absence of anything in the record to suggest that the employer was planning to reassign Teacher B's responsibilities to the claimant, her fear was premature and highly speculative. Since there is no evidence to indicate that the employer had said or done anything about replacing Teacher B, there is no basis to conclude that it acted unreasonably.

Because the claimant's progressive neurological condition made it physically difficult to move between the two classrooms, we also consider whether her new split classroom assignment was unsuitable. *See* Findings of Fact ## 5 and 23. "Leaving employment because it is or becomes unsuitable is, under the case law, incorporated in the determination of 'good cause.' *See* Graves v. Dir. of Division of Employment Security, 384 Mass. 766, 768 n. 3 (1981)." Baker v. Dir. of Division of Unemployment Assistance, No. 12-P-1141, 2013 WL 3329009 (Mass. App. Ct. July 3, 2013), *summary decision pursuant to rule 1:28*.

In this case, the review examiner found that the claimant's neurological condition affects her muscle strength, balance, endurance, significantly reduces her mobility, and requires her to use either a walker or a cane at all times. *See* Finding of Fact # 5. Thus, despite the fact that the newest work assignment was the employer's attempt to ameliorate the claimant's problems with her co-teacher, the evidence indicates that the new position may have been unsuitable.

However, our analysis does not end here. In order to be eligible for unemployment benefits, whether for good cause attributable to the employer or urgent, compelling, and necessitous reasons, claimants must show that they took reasonable steps to preserve their employment or show that such efforts would have been futile. Guarino v. Dir. of Division of Employment Security, 393 Mass. 89, 93–94 (1984); Norfolk County Retirement System v. Dir. of Department of Labor and Workforce Development, 66 Mass. App. Ct. 759, 766 (2006) (citation omitted).

[1] The claimant's uncontested testimony that the math interventionist position and the teacher position both required the same educational certifications is part of the unchallenged evidence introduced at the hearing and placed in the record and 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).

In this case, the claimant did not make a reasonable attempt to keep her job. The findings show that, even though the claimant did not tell the employer when she was hired that she had a neurological disorder which affected her mobility, a degree of physical impairment was evident from the fact that she always used a cane or walker, was permitted to park in the employer's handicapped parking space, was excused from student field trips, and was allowed to avoid activities that required using the stairs. *See* Findings of Fact ## 5–7, and 10. Thus, upon realizing that this newest position was too challenging in light of her impairment, a logical and reasonable preservation step would have been to inform the employer that she was experiencing physical difficulties moving between the two classrooms and to explore possible accommodations. In failing to do so, the claimant has not shown reasonable efforts to preserve her job. This is especially so given the employer's demonstrated willingness to work with the claimant without knowing the full extent of her medical condition. *See* Findings of Fact ## 7, 10, 20, 21, 23, and 32. Given this record, the claimant has not shown that such steps to preserve her employment would have been futile.

We, therefore, conclude as a matter of law that the claimant resigned her position without good cause attributable to the employer or urgent, compelling, and necessitous reasons under G.L. c. 151A, § 25(e)(1).

The review examiner's decision is reversed. The claimant is denied benefits for the week ending November 16, 2024, and for subsequent weeks, until such time as she has had at least eight weeks of work and has earned an amount equivalent to or in excess of eight times her 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.

DY/rh