

A veterinary assistant failed to meet her burden to show she quit her job for good cause attributable to the employer, where the record shows that the veterinarian exercised his medical training and experience to proceed with an operation on a dog, who tragically died after the surgery. The claimant's decision to leave may have been the correct personal decision for her, but it is not a basis to qualify for unemployment benefits pursuant to G.L. c. 151A, § 25(e)(1).

**Board of Review
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Issue ID: 334-FHJK-7N37

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 February 18, 2025. She filed a claim for unemployment benefits with the DUA, effective February 16, 2025, which was denied in a determination issued on March 22, 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 overturned the agency's initial determination and awarded benefits in a decision rendered on May 9, 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, she 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 in order to obtain additional evidence from both parties about the circumstances which triggered 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 had good cause attributable to the employer to resign because she was traumatized when the employer veterinarian proceeded with surgery despite her repeated attempts to alert him to a dog's distress, 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 and credibility assessment are set forth below in their entirety:

1. The claimant was employed as a veterinary technician/receptionist for the employer from October 14, 2024, through February 18, 2025, when the claimant separated from the employer.
2. The claimant has a certificate in veterinary assistance. The claimant is not trained to diagnose patients.
3. The employer's owner/veterinarian was the claimant's supervisor. The owner has been a veterinarian for 33 years as of February 18, 2025.
4. The claimant's pay was about \$20.00 per hour.
5. On February 17, 2025, the veterinarian treated a dog for superficial corneal ulcers.
6. On February 18, 2025, the dog was in pain due to ulcers.
7. On February 18, 2025, at 12:30 p.m., when the dog returned to the employer's office, the veterinarian determined that the dog needed to have medically necessary surgery to facilitate healing because the corneal cells surrounding the ulcers had died. The veterinarian performed this type of surgery 2,141 times prior to February 18, 2025.
8. On February 18, 2025, the dog was obese. The dog's breathing was labored due to his weight and his anatomy as a pit bull [sic].
9. The dog's medical record indicated that since June 2023, the dog's breathing was labored due to his weight and anatomy.
10. The dog had been the veterinarian's patient since February 2018. The veterinarian performed three previous eyelid surgeries on the dog under general anesthesia.
11. On February 18, 2025, during pre-surgery prep, the claimant notified the veterinarian that the dog was in distress. The claimant believed that the dog was in distress because of his heavy breathing. The veterinarian administered a tranquilizer to the dog.
12. Based on his experience, the veterinarian had concluded that the dog was not in distress but in pain due to the ulcers. The heavy breathing was due to the dog being obese and his anatomy as a pit bull [sic].
13. The claimant and another technician asked the doctor to reschedule the surgery for another date given their concerns about the dog's distress level. The veterinarian replied that he was the doctor and continued with the surgery.

14. After the surgery, the dog continued to have labored beathing. The claimant observed the dog to have stopped breathing. CPR was performed on the dog as his heart had stopped. The dog passed away.
15. The owners of the dog were upset. One of the owners hit the veterinarian. The claimant and another employee intervened to stop the physical altercation.
16. The claimant believed the veterinarian was negligent in how he treated the dog. She disagreed with how the dog was treated.
17. The claimant quit because she disagreed with how the owner treated the dog on February 18, 2025, and believed the owner was negligent.
18. The veterinarian treated the dog in accordance with his professional qualifications and diagnosis of the dog.

Credibility Assessment:

The claimant quit, because she believed that the veterinarian was negligent and disagreed with how he treated the dog on February 18, 2025.

The veterinarian offered detailed testimony regarding his training and experience, in addition to the dog's condition and medical history. The testimony made sense, and the consolidated findings of fact indicate that he addressed the dog's condition and even some of the claimant's concerns. The dog's condition on February 18, 2025, was related to its medical history and anatomy, and the veterinarian offered credible testimony that he treated the dog in accordance with his medical knowledge and experience while considering the dog's medical history and diagnosis.

Therefore, as to the treatment of the dog on February 18, 2025, it is found that the veterinarian's testimony is more credible than the claimant's testimony.

It is clear that the claimant disagreed with how the veterinarian treated the dog. Certainly, the dog owner's reaction to the dog's death was unfortunate. However, the claimant's opinion that the veterinarian was negligent was not supported by anything other than her testimony, and the burden in this matter was on the claimant. Rather than finding that the veterinarian was negligent, the record supports the finding that the claimant disagreed with what the veterinarian did, and she thought that he was negligent. The record does not support a finding that such a belief was reasonable, given the claimant's limited experience, or that the veterinarian was actually negligent.

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 Findings ## 8 and 12, which states the dog was a pit bull, as the parties' undisputed testimony was that the patient was a bulldog.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. Given the record after remand, we reject the review examiner's original legal conclusion that the claimant is eligible for benefits, as outlined below.

Because the claimant resigned from her employment, her eligibility for benefits is properly analyzed under the following provisions of G.L. c. 151A, §§ 25(e), which state, 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 places the burden of proof upon the claimant.

In this case, the claimant resigned because she believed that the employer's owner, a veterinarian eye specialist, was negligent in how he treated a dog on February 18, 2025. *See* Consolidated Finding # 17.

“[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 reason for leaving the employer had to do with the owner's action. Therefore, there is no basis to conclude that she resigned due to urgent, compelling, and necessitous circumstances. The question is whether she had good cause attributable to the employer to leave.

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). Here, the claimant alleged that the employer's conduct on February 18, 2025, traumatized her. Specifically, she alleged that the owner veterinarian's decision to proceed with corneal ulcer surgery on a bulldog was negligence. She believed this because, just before the surgery, she had alerted him to the fact that

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 dog's breathing was labored, it was in distress, he refused to schedule it for another day as she requested, and, after the surgery, the dog stopped breathing and died. *See Consolidated Findings ## 11, 13, 14, and 16.* The claimant testified that she felt this was harmful to the animal and to the employees who had to see the animal die.²

To determine if the claimant has carried her burden to show good cause under the above-cited statute, we consider whether the claimant's workplace complaint about her employer's conduct was reasonable. *See Fergione v. Dir. of Division of Employment Security*, 396 Mass. 281, 286 (1985) (claimant's belief that she was being harassed was not a reasonable one). After hearing the veterinarian owner's detailed medical explanation about what transpired that day and his reason for proceeding with the surgery, the review examiner concluded that the claimant's belief that the owner was negligent was unreasonable.

Such assessments are within the scope of the fact finder's role, and, unless they are unreasonable in relation to the evidence presented, they will not be disturbed on appeal. *See School Committee of Brockton v. Massachusetts Commission Against Discrimination*, 423 Mass. 7, 15 (1996). "The test is whether the finding is supported by 'substantial evidence.'" *Lycurgus v. Dir. of Division of Employment Security*, 391 Mass. 623, 627 (1984) (citations omitted). "Substantial evidence is 'such evidence as a reasonable mind might accept as adequate to support a conclusion,' taking 'into account whatever in the record detracts from its weight.'" *Id.* at 627–628, *quoting New Boston Garden Corp. v. Board of Assessors of Boston*, 383 Mass. 456, 466 (1981) (further citations omitted).

Given the employer's testimony about his extensive training in the field of veterinary medicine, his experience performing 2,141 similar such eye surgeries, his detailed description of this bulldog's medical history, the dog's underlying genetic disorder that caused its heavy breathing, the pain the dog would be experiencing due to the corneal ulcer, and the complicating factor that the dog was "grotesquely" obese, we believe that the review examiner's assessment is reasonable in relation to the evidence presented. While we understand that witnessing a dog suffer and pass away is distressing to watch, and leaving her job may have been the right personal decision for the claimant, she has failed to show that the owner's actions amounted to negligence or were otherwise unreasonable.

The claimant has shown that she disagreed with how the employer treated its patient on February 18, 2025. *See Consolidated Finding # 17.* However, general and subjective dissatisfaction with working conditions does not provide good cause to leave employment under G.L. c. 151A, § 25(e)(1). *Sohler v. Dir. of Division of Employment Security*, 377 Mass. 785, 789 (1979).

Although not in the consolidated findings, we also consider the claimant's allegation that, in addition to her trauma over this dog's treatment on February 18, 2025, she felt unsafe because the pet owner, upset about losing his pet, physically struck the owner. *See Consolidated Finding # 15.* While such violence is concededly disturbing and could reasonably cause the claimant to feel unsafe, it was the client who engaged in this aggressive behavior, not the employer's owner.

² The claimant's testimony about how she felt, as well as the employer's and the claimant's further testimony referenced below, are also part of the unchallenged evidence in the record.

Moreover, the record indicates that it was an unusual, isolated incident. The employer testified that, in all of his years of practice, he had never been punched by a client.

We, therefore, conclude as a matter of law that the claimant has failed to meet her burden under G.L. c. 151A, § 25(e)(1), to prove that she resigned from employment for good cause attributable to the employer or for urgent, compelling, and necessitous reasons.

The review examiner's decision is reversed. The claimant is denied benefits for the week ending February 22, 2025, 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 - November 4, 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.

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