

The claimant's reasons for separating from this employer had no bearing on his eligibility for benefits. Since the claimant subsequently had at least eight weeks of work with another employer prior to filing his claim, the present employer was not an interested party under G.L. c. 151A, § 38(b).

**Board of Review
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Issue ID: 334-FHK6-P73P

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 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 or around August 19, 2023. He subsequently filed a claim for unemployment benefits with the DUA, effective September 29, 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 only by the claimant, the review examiner affirmed the agency's initial determination and denied benefits in a decision rendered on October 30, 2025. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant had voluntarily left employment without good cause attributable to the employer or urgent, compelling, and necessitous reasons and, thus, was 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 claimant's appeal.

The issue before the Board is whether the review examiner's decision, which concluded that the claimant had not met his burden to show that he left his employment from the instant employer for good cause attributable to the employer or for urgent, compelling, and necessitous reasons, 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. Sometime between July 1, 2023, and August 19, 2023, the claimant worked for one (1) day (the day) as a flower picker for the employer, a flower warehouse.
2. The claimant was hired by the employer on a full-time basis.

3. At the time he started the position, the employer's owner (the owner) told him that he could earn more money if he picked flowers at a faster rate. The claimant accepted the position knowing that he would be picking flowers.
4. During the day, the claimant picked flowers at the employer's refrigerated warehouse. It is unknown how cold the warehouse was while the claimant worked.
5. The claimant did not like the job. He was displeased by having to work in a refrigerated environment, as he found it cold.
6. The claimant does not have any medical conditions that are exacerbated by the cold.
7. The claimant, who had worked for many years in food service, was displeased that he was picking flowers.
8. The claimant was displeased that, as part of his duties, he needed to remember where the flowers were located.
9. The claimant, due to his general job dissatisfaction, decided to quit his employment.
10. At the end of his shift on the day, his only day working for the employer, the claimant told the owner that the warehouse was cold, that he would rather work in the food industry, and quit his employment, effective immediately.
11. The claimant worked a total of 11 hours for the employer and earned \$194.65 in wages.
12. It is unknown if the claimant had another job while working for the employer.
13. At the time he quit his job, the claimant did not have another job lined up.
14. The claimant filed a claim for unemployment benefits, effective August 20, 2023.
15. At the time the claimant filed [sic] claim for benefits, he indicated that his job with the employer was a full-time job.
16. The claimant has no reported earnings during the fourth quarter of 2023.
17. The claimant certified for unemployment benefits weekly, beginning August 20, 2023, and through March 2, 2024. While certifying for benefits during this period, the claimant did not report any earnings to the Department of Unemployment Assistance (DUA).

18. In the first quarter of 2024 (January through March), the claimant began working for another employer in the food industry.

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, except Finding of Fact # 9, to the extent it contains a mixed statement of fact and law. "Application of law to fact has long been a matter entrusted to the informed judgment of the board of review." Dir. of Division of Employment Security v. Fingerman, 378 Mass. 461, 463–464 (1979). In adopting the remaining findings, we deem them to be supported by substantial and credible evidence. We further believe that the review examiner correctly concluded that the claimant did not meet his burden to show that he voluntarily separated from the employer with good cause attributable to the employer, or for urgent, compelling, and necessitous reasons, under G.L. c. 151A, § 25(e)(1). However, as discussed more fully below, we reject the review examiner's legal conclusion that the claimant is ineligible to receive benefits on this claim.

Under G.L. c. 151A, § 38(b), the DUA must give notice of a claim to the claimant's most recent employing unit and to such other employers as the DUA shall prescribe. The DUA has prescribed that interested-party employers include those employers from whom the claimant became separated during the last eight weeks of employment prior to the effective date of his unemployment claim. Pursuant to this policy, a claimant's eligibility under G.L. c. 151A, § 25(e), will only be based upon his separation from interested-party employers.

This policy is consistent with the eight-week disqualification period, which the Legislature embedded into G.L. c. 151A, § 25, which states:

[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 and until the individual has had at least eight weeks of work . . . 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, (2) by discharge shown to the satisfaction of the commissioner by substantial and credible evidence to be attributable to . . . a knowing violation of a reasonable and uniformly enforced rule or policy of the employer, provided that such violation is not shown to be as a result of the employee's incompetence. . . .

(Emphasis added.)

Thus, an individual who separates from a prior employer and immediately files an unemployment claim may be disqualified under G.L. c. 151A, § 25(e)(1) or (2), depending upon the circumstances of that separation. However, what transpired with this former employer is not disqualifying if that individual subsequently performs eight weeks of work for another employer and then files a claim. The DUA has no interest in the prior employer's separation because it has no bearing on whether the claimant is entitled to benefits under G.L. c. 151A, § 25.

A review of the claimant's profile in the DUA's electronic recordkeeping system shows that the claimant filed his claim for benefits on October 2, 2024, with an effective date of September 29, 2024. As reflected in the findings of fact, this claim was filed more than a year after the claimant's separation from the instant employer, on or around August 19, 2023. *See* Finding of Fact # 1. Further, both the hearing record and DUA's electronic record-keeping system confirm that, after separating from the instant employer, the claimant began working for another employer in the first quarter of 2024, where he continued working until July 3, 2024.¹ Because DUA records indicate that the claimant did not work for the instant employer during the last eight weeks of employment prior to filing his claim, the employer is not an interested party employer.

We, therefore, conclude as a matter of law that the claimant may not be disqualified under G.L. c. 151A, § 25(e), based upon his separation from this employer, because it was not an interested-party employer pursuant to G.L. c. 151A, § 38(b).

The review examiner's decision is reversed. The claimant is entitled to receive benefits for the week beginning September 29, 2024, and for subsequent weeks if otherwise eligible.

BOSTON, MASSACHUSETTS
DATE OF DECISION - December 23, 2025



Charlene A. Stawicki, Esq.
Member



Michael J. Albano
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**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.

JMO/rh

¹ The claimant's eligibility for benefits following his separation from this other employer was adjudicated in a separate decision, identified as Issue ID # 334-FHM7-DFTH.