

Where employer's senior account manager notified the claimant that his temporary assignment was ending, the employer knew it could offer the claimant a new assignment but did not. Nothing in the record indicates that he engaged in any misconduct to cause the assignment to end. Under these circumstances, the claimant may not be disqualified for failing to notify the temporary help agency that he was available for work, and he is eligible for benefits pursuant to G.L. c. 151A, § 25(e)(2).

**Board of Review
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Issue ID: 334-MLLD-49FV

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 March 31, 2025. He filed a claim for unemployment benefits with the DUA, effective March 30, 2025, which was denied in a determination issued on June 2, 2025. The claimant 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 denied benefits in a decision rendered on July 12, 2025. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant 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 quit his employment when he failed to request another assignment with his temporary employer at the conclusion of his last assignment, is supported by substantial and credible evidence and is free from error of law, where the employer itself had contacted the claimant to terminate the assignment and, therefore, knew of the claimant's availability for new assignments.

Findings of Fact

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

1. The employer's establishment is a temporary staffing agency.

2. The claimant initially worked on assignment for the employer's client, a health insurance provider, from February 19, 2024, until May 31, 2024. At this time, the claimant's assignment ended with the client company. At this time, the claimant's contact person at the employer's establishment was the 1st account manager. During this job assignment, the claimant's job role with the client was member advocate/market appeals and grievances. Upon this assignment ending, the 1st account manager informed the claimant that there may be another assignment available for the claimant at the client's location, and inquired with the claimant if the claimant was interested in interviewing for another assignment with the client company. At this time, the claimant informed the 1st account manager he was interested in another assignment with the client location.
3. In August 2024, the claimant started working again for the employer's client on assignment.
4. Upon the claimant returning to work for the employer's client on August 29, 2024, the senior account manager became the claimant's contact person at the employer's establishment.
5. On August 22, 2024, the claimant signed the employer's notice of availability form, notifying the claimant of the following obligation:

"As a temporary employee of [employer], I acknowledge that I may be assigned to work for a period of time at one of [employer's] client companies. When this temporary assignment is completed, I understand that I must contact [employer] at [Location A], MA or via telephone at [Telephone Number] to request reassignment or to inform [employer] that I am no longer looking for work.

I understand that failure to contact [employer] for reassignment before filing a claim for unemployment insurance benefits may result in the denial of those benefits."

6. At the time the claimant signed the notice of availability form, the claimant did read the notice of availability form section notifying him of a responsibility to request another assignment prior to filing for unemployment benefits.
7. On August 29, 2024, the claimant started working on another assignment at the employer's client location as a full-time benefits coordinator. In this role, the claimant was scheduled to work for the employer's client Monday through Friday, from 8:00 a.m. to 4:00 p.m., remotely. The claimant occasionally worked on-site at the client location in [Location B], MA. The employer paid the claimant \$22.00 per hour to work for the employer's client in this role.
8. On or about March 28, 2025, the employer's senior account manager informed the claimant during a telephone conversation that the client was ending the claimant's assignment, effective March 31, 2025. During this conversation, the

claimant informed the account manager that the claimant's supervisor at the client location had already informed the claimant that the client had decided to end the claimant's assignment. During this conversation, the claimant and the senior account manager spoke about the claimant returning the client's equipment. During this conversation, the claimant did not request the employer for a new assignment, and the senior account manager did not offer the claimant another assignment.

9. The claimant's last date of work at the employer's client on the assignment was March 31, 2025. At this time, the employer's client ended the claimant's assignment and did not extend the assignment. The claimant did not violate any rules, policies or expectations that led to the employer's client deciding to end the assignment.
10. The claimant had assumed that the employer would contact the claimant in the event another assignment was available, as the employer had previously inquired with the claimant when his initial assignment had ended with the client in May 2024 about returning to work with the client, and the claimant did return to work again with the client in August 2024 until his last date of work for the client on March 31, 2025.
11. The claimant filed an initial unemployment claim effective the week ending April 5, 2025. The claimant did not request another assignment from the employer's establish [sic] prior to filing this unemployment claim.
12. On a questionnaire the employer submitted to the Department of Unemployment Assistance (DUA) for consideration regarding the claimant's employment status, the employer selected "No" to the following question: "Did the claimant's employment end due to a lack of work?"
13. On a questionnaire the employer submitted to the DUA for consideration, the employer wrote, "No contact for new assignment" in response to the following question "What reason did the claimant give for quitting?"
14. The claimant did not specifically inform the employer that the claimant was quitting his job at the employer's establishment or the assignment for the employer's client.
15. The claimant quit his job at the employer's establishment because the claimant failed to request the employer for another assignment prior to filing an initial unemployment claim, effective the week ending April 5, 2025, after his assignment had ended at the employer's client's location, effective March 31, 2025.
16. On June 2, 2025, the DUA issued a determination denying the claimant benefits under Section 25(e) of the Law commencing the week ending April 5, 2025, and until he met the requalifying provisions of the Law. On the determination,

the DUA wrote, in part: “Your employer informed you that you had to notify them to ask for a new assignment after completing your last assignment. But you did not do this and you did not have good cause for not notifying the employer. Because of that, leaving your job is considered voluntary and the employer is not responsible.” In response to this determination, the claimant appealed.

17. After receiving the determination from the DUA, the claimant contacted the senior account manager by email on May 28, 2025, and June 18, 2025, requesting another assignment. The senior account manager did not response to these e-mails, as at that time, the employer did not have another assignment available for the claimant.
18. The claimant did not read the employer’s notice of availability form that he had signed on Augst 22, 2024, notifying the claimant of an obligation to request another assignment prior to filing for unemployment benefits, until the hearing held on July 10, 2025.
19. The claimant is still eligible for other assignments with the employer’s establishment.
20. The claimant has not been provided with any job offers with any employer’s [sic] since his last date of work at the employer’s client on March 31, 2025 (as of the date of the hearing). The claimant has had job interviews with other employers since his last date of work at the employer’s client on March 31, 2025.

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. After such review, the Board adopts the review examiner’s findings of fact, except that portion of Finding of Fact # 6 stating that the claimant read the notice of availability form at the time he signed it, because it is unsupported by the record and inconsistent with Finding of Fact # 18. In adopting the remaining findings, we deem them to be supported by substantial and credible evidence. However, as discussed more fully below, we disagree with the review examiner’s legal conclusion that the claimant is ineligible for benefits.

In this case, the claimant worked for the employer, a temporary staffing agency, until March 31, 2025. *See Findings of Fact ## 1 and 9.* Because of this employment relationship, we must first consider his eligibility under the specific statutory provision that applies to temporary help firm employees. G.L. c. 151A, § 25(e), states, in relevant part:

A temporary employee of a temporary help firm shall be deemed to have voluntarily quit employment if the employee does not contact the temporary help firm for reassignment before filing for benefits and the unemployment benefits may be

denied for failure to do so. Failure to contact the temporary help firm shall not be deemed a voluntary quitting unless the claimant has been advised of the obligation in writing to contact the firm upon completion of the assignment.

Finding of Fact # 5 shows that the employer had advised the claimant in writing of his obligation to contact the employer prior to filing for benefits. His last physical day of work was Monday, March 31, 2025, and he filed an initial unemployment claim, effective the week ending April 5, 2025. Findings of Fact ## 9 and 11. We note that the DUA's online record-keeping database shows that the claimant filed his claim for unemployment benefits on April 8, 2025. Pursuant to the above provision, the separation will be deemed to be a voluntary quit only if the claimant had failed to contact the employer for reassignment between March 31, 2025, and April 8, 2025.

The findings further show that, on or about March 28, 2025, the employer spoke with the claimant, advising him that his assignment was ending, effective March 31, 2025. Finding of Fact # 8. In our view, this satisfied the claimant's statutory requirement. The Board has long interpreted this provision to require communication between the employer and the claimant at or near the end of an assignment so that the employer has an opportunity to tender a timely offer of a new assignment to the claimant and thus avoid the claimant's unemployment. *See, e.g.*, Board of Review Decision 0016 0869 84 (Mar. 24, 2016). During the parties' communication on or about March 28, 2025, the employer had an opportunity to offer the claimant new work prior to the claimant filing for benefits. Given this contact, he may not be deemed to have quit under the above section of G.L. c. 151A, § 25(e). As in our earlier cases, we decline to interpret the statute to require a claimant to initiate redundant contact with the employer to comply with an unduly formulaic interpretation of the statute, when the apparent purpose of the statute has been served.

Moreover, nothing in the record indicates that, during that conversation on or about March 28, 2025, in which the employer's senior account manager spoke to the claimant, he had offered the claimant another assignment. Finding of Fact # 8 demonstrates that, although neither party discussed the possibility of a new assignment, the employer clearly had an opportunity to offer the claimant work and did not do so.

Additionally, Finding of Fact # 9 shows that the employer did not extend the claimant's most recent assignment past March 31, 2025. Therefore, at that time, he was laid off due to lack of work. For purposes of unemployment eligibility, this is deemed to be a discharge, and we must analyze his separation pursuant to G.L. c. 151A, § 25(e)(2), which provides:

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 . . . (2) by discharge shown to the satisfaction of the commissioner by substantial and credible evidence to be attributable to deliberate misconduct in willful disregard of the employing unit's interest, or 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, . . .

“[The] grounds for disqualification in § 25(e)(2) are considered to be exceptions or defenses to an eligible employee's right to benefits, and the burdens of production and persuasion rest with the

employer.” Still v. Comm’r of Department of Employment and Training, 423 Mass. 805, 809 (1996) (citations omitted).

Since there is no evidence to indicate that the layoff was due in any way to the claimant’s behavior, the employer has not met its burden to demonstrate either misconduct or a violation of policy. *See* Finding of Fact # 9. Therefore, he may not be disqualified under G.L. c. 151A, § 25(e)(2).

We, therefore, conclude as a matter of law that the claimant’s separation from the employer was involuntary, and the employer has failed to meet its burden under G.L. c. 151A, § 25(e)(2), to show that separation was due to deliberate misconduct in wilful disregard of the employer’s interest or to a knowing violation of a reasonable and uniformly enforced policy.

The review examiner’s decision is reversed. The claimant is entitled to receive benefits for the week beginning March 30, 2025, and for subsequent weeks if otherwise eligible.

BOSTON, MASSACHUSETTS
DATE OF DECISION - August 29, 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.

JMO/rh