

**The claimant was not eligible for unemployment benefits pursuant to G.L. c. 151A, §§ 29(a), (b), and 1(r), for the periods during a medical leave of absence when he was incapable of working and when he was working full-time for another employer.**

**Board of Review  
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**Issue ID: 352-MLH7-JJH6**

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 we affirm in part and reverse in part.

The claimant had filed a claim for unemployment benefits with an effective date of July 14, 2024, and reopened his claim on February 2, 2025. He then separated from his position with the employer on March 11, 2025. In a determination issued on May 27, 2025, the DUA denied benefits. 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 July 19, 2025. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant was not eligible because he was neither in total or partial unemployment nor capable of full-time work from July 10, 2024, through February 1, 2025. He was disqualified under G.L. c. 151A, §§ 29(a), (b), and 1(r). After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal, we remanded the case to the review examiner to take additional evidence about the claimant's capability to work, and to provide the claimant and employer the opportunity to provide additional documents about the claimant's leave of absence. Only the claimant 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 disqualified when he was not physically capable of work for the period of July 10, 2024, through February 1, 2025, 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 worked full-time as a Clinical Pharmacy Technician for the employer, [Employer A], from May 20, 2024, through July 10, 2024.
2. The claimant earned \$27.00 per hour working for the employer.
3. The claimant's job with the employer was in-person.
4. The claimant went out of work on an approved medical leave of absence on July 10, 2024. The claimant had pancreatitis, liver and kidney issues keeping him out of work.
5. The claimant received paid family medical leave (PFML) from July 10, 2024, through November 26, 2024.
6. The claimant received a small amount per week on PFML.
7. The claimant started working as a Clinical Pharmacy Technician for [Employer B] on September 4, 2024. The claimant worked for [Employer B] from September 4, 2024, through January 30, 2025.
8. The claimant's job as a Clinical Pharmacy Technician for [Employer B] was completely remote.
9. The claimant's job as a Clinical Pharmacy Technician for [Employer B] was full-time.
10. The claimant earned \$27.10 per hour working for [Employer B].
11. The claimant's job duties as a Clinical Pharmacy Technician for [Employer B] included calling patients and scheduling patients for appointments with the pharmacist and with their doctors.
12. The claimant worked Monday through Friday from 7:00 a.m. to 3:30 p.m. for [Employer B].
13. The claimant worked for [Employer B] while he was on the leave of absence from [Employer A].
14. The claimant worked for the [Employer B] while on the leave of absence because he was only receiving a small amount of money per week on PFML and the job was remote and only required him to be on the phone.
15. [Employer A] required a doctor's note from the claimant before he could return to work.

16. The claimant left his job with the [Employer B] on January 30, 2025, because the job was changing, and he would be required to work in-person. The claimant was not physically ready to return to work in-person.
17. The claimant was on family medical leave (FMLA) from approximately November 27, 2024, through January 10, 2025.
18. The claimant did not receive any compensation while on FMLA.
19. The claimant did not try to return to work with [Employer A] in November 2024.
20. The claimant did not try to return to work for [Employer A] as of November 2024 because the job was too physical and required a lot of walking.
21. The claimant filed a claim for unemployment benefits with an effective date of July 14, 2024, but did not certify for benefits.
22. The claimant began certifying for benefits as of the week ending February 8, 2025.
23. The claimant sent the employer an email on or about February 26, 2025 that stated, “no one has contact me but you and i was on fmla until january 10 wich i can extend im telling you what my doctor has been telling me i need to go part time, im not refusing but i need those accommodations”
24. The claimant forwarded a return to work note to the employer as of February 26, 2025. The note set forth that the claimant could return to work as of February 2, 2025, for 16 hours per week with the limitation of no long walks.
25. The employer’s human resources responded to the claimant’s February 26, 2025, email on March 10, 2025, and stated in part, “You have no time available to do a reduced schedule and your dept has been looking for you to return since December. You will need to return tomorrow full time or we will be terminating employment. Please let me know if you have additional questions.”
26. The claimant separated from his employment with [Employer A] because he did not return to work on March 11, 2025.

Credibility Assessment:

The claimant did not provide any documentation related to his leave of absence from July 2024 through February 2025. The claimant provided no PFML or FMLA documentation except an email exchange between the claimant and the employer’s human resources. (Remand Exhibit #10) The claimant testified in the original hearing that he received approximately \$30 per week on PFML. At the remand hearing, the claimant testified he received \$13 per week on PFML.

The claimant testified in the remand hearing that he was cleared to return to work 16 hours per week with the walking restrictions as of the end of November 2024. The claimant testified in the remand hearing that he called the employer and sent a doctor's note that he could return to work around the end of November 2024. The claimant testified in the remand hearing that he received no response from the employer in November 2024. The claimant did not provide a doctor's note to the hearing setting forth that he could return to work part-time in November 2024. The claimant testified in the original hearing that he was cleared to return to work full duty as of approximately February 20, 2025. The claimant testified that he was already separated from his employment when he became able to return to work full duty. This testimony is undermined by the claimant's testimony in the remand hearing that he was not able to return to work as of the end of February 2025. The claimant testified in the remand hearing that he could not return to work as of the time of the email (March 10, 2025) because he was not able at that time to perform full time work. The claimant's testimony is not consistent regarding his capabilities as of the end of February and as of his separation from employment. The separation of employment, as set forth in the email from human resources, was not February 2, 2025, but was March 11, 2025. The claimant did not provide any other medical documentation.

The claimant consistently testified that he was capable of performing full-time sedentary work while he was out on the leave of absence.

### 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. Upon such review, the Board adopts the review examiner's consolidated findings of fact and deems 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. We also agree that the claimant is ineligible for benefits.

To be eligible for unemployment benefits, the claimant must show that he is in a state of unemployment within the meaning of the statute. G.L. c. 151A, § 29, authorizes benefits to be paid to those in total or partial unemployment. Those terms are defined by G.L. c. 151A, § 1(r), which provides, in relevant part, as follows:

(1) "Partial unemployment", an individual shall be deemed to be in partial unemployment if in any week of less than full-time weekly schedule of work he has earned or has received aggregate remuneration in an amount which is less than the weekly benefit rate to which he would be entitled if totally unemployed during said week; provided, however, that certain earnings as specified in paragraph (b) of section twenty-nine shall be disregarded. . . .

(2) “Total unemployment”, an individual shall be deemed to be in total unemployment in any week in which he performs no wage-earning services whatever, and for which he receives no remuneration, and in which, though capable and available for work, he is unable to obtain any suitable work.

Thus, claimants are only eligible for benefits if they are capable of, available for, and actively seeking full-time work, and they may not turn down suitable work.

It is apparent from the findings that the claimant was working full-time for another employer while he was on a medical leave of absence with the instant employer.<sup>1</sup> *See* Consolidated Findings ## 5–7, 13, and Remand Exhibit # 7.<sup>2</sup> The claimant’s disqualification under this section of law is twofold. The claimant was presumably not capable of working from July 10 through September 3, 2024, while he was on a medical leave of absence, and, therefore, he was not in total or partial unemployment within the meaning of G.L. c. 151A, § 1(r). *See* Consolidated Findings ## 4–7, and 17.

Additionally, from September 4, 2024, through January 30, 2025, he was also not in total or partial unemployment as he already had a full-time weekly schedule of work. *See* Consolidated Findings ## 7–14.

In her credibility assessment, the review examiner explained that she no longer believed that the claimant was able to return to work full-time in February of 2025, where after remand, he provided an email dated March 10, 2025, stating that he was not able to return to work full-time. 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). We believe her assessment is reasonable in light of this evidence.

Given the review examiner’s assessment about the claimant’s credibility and the lack of documentation showing he was communicating with his employer about returning to work before March, 2025, the claimant is not eligible for benefits for the period of January 31, 2025, through March 10, 2025, because the record indicates that he did not seek any work.<sup>3</sup> However, our decision today imposes a disqualification only until February 1, 2025, because the DUA has imposed a disqualification beginning February 8, 2025, under a separate issue. *See* Issue # 352-MNF4-FK73.

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<sup>1</sup>The effective date of the claim is July 14, 2024, and the claimant began certifying for unemployment benefits the week beginning February 2, 2025. The claimant was working for another employer from September 4, 2024, until January 30, 2025, which overlaps with his Paid Family Medical Leave (PFML) of absence from July 10, 2024, through November 26, 2024.

<sup>2</sup> Remand Exhibit # 7 is the claimant’s monetary summary showing he worked during the 4th Quarter of 2024 and the 1st Quarter of 2025.

<sup>3</sup>The hearing was remanded to give the claimant an opportunity to provide documentation about his leave of absence. The only documentation the claimant provided showing his communications with his employer is an email dated March 10, 2025, which informed the employer that he could not return to work full-time, but could return part-time. *See* Remand Exhibit # 10.

We, therefore, conclude as a matter of law that the claimant was not in total or partial unemployment pursuant to G.L. c. 151A, §§ 29 and 1(r), from July 10, 2024, through February 1, 2025.

The review examiner's decision is affirmed in part and reversed in part. The claimant is denied benefits for the week beginning July 7, 2024, until February 1, 2025.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - February 9, 2026**



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](http://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.

MR/rh