

The claimant is automatically entitled to have his claim pre-dated pursuant to G.L. c. 151A, § 62A(g), because the review examiner found that the employer did not provide him with the required written notice about how to file for unemployment benefits.

Board of Review
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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 an earlier effective date for a claim for 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 April 15, 2025. He subsequently filed a claim for unemployment benefits with the DUA, effective May 18, 2025. The claimant later requested a pre-date for his 2025 claim to be effective on April 20, 2025. His request to pre-date the claim was denied in a determination issued on June 11, 2025. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits attended by the claimant, the review examiner affirmed the agency's initial determination and denied the request to pre-date the claim in a decision rendered on August 9, 2025. We accepted the claimant's application for review.

An earlier effective date was denied after the review examiner determined that the claimant did not have good cause for failing to timely file his claim for benefits, and, thus, he was not entitled to have his claim pre-dated under G.L. c. 151A, §§ 23(b) and 24(c). 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 make subsidiary findings from the record. 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 is not entitled to a pre-date, is supported by substantial and credible evidence and is free from error of law, where, after remand, the review examiner found that the claimant's former employer failed to give him written notice of how to file a claim.

Findings of Fact

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

1. The claimant became separated from his most recent employer on 4/15/2025.

2. At the time the claimant separated from the employer, it provided him with a separation letter. The employer did not provide him with information about his right to file a claim for unemployment benefits.
3. At the time the claimant became separated from his most recent employer, he made contact with a potential employer.
4. The potential employer informed the claimant he would hire him but did not give the claimant a definite start date.
5. Approximately a week after his separation, the claimant spoke with his coworker. The coworker told the claimant he could file for unemployment benefits. The claimant told the coworker he obtained new employment and would not need to file for unemployment benefits.
6. The claimant had a previous claim for unemployment benefits and did not want to file a claim for unemployment benefits because he did not want to “deal with unemployment.”
7. After approximately a month of not obtaining a start date with the potential employer, the claimant decided to file a claim for unemployment benefits.
8. The claimant initiated a claim for unemployment insurance benefits on 5/20/2025, effective for 5/18/2025. The claimant requested that his claim be effective for the week beginning 4/20/2025.
9. On 6/11/2025, the Department of Unemployment Assistance issued the claimant a Notice of Disqualification and the effective date of the claim was established as 5/18/2025.
10. The claimant did not file a claim for benefits until 5/20/2025 because he thought he had a job.

Credibility Assessment:

Although the claimant indicated in his fact-finding questionnaire that the employer provided him with information about his right to file a claim for unemployment benefits, he testified that he did not receive information in writing but did receive a separation letter from the employer. Given that the claimant received a separation letter, it can be concluded he made a mistake when he completed the fact-finding, because he did receive something from the employer in writing at the time of his separation. However, it was also the claimant’s own credible testimony that he knew he could file a claim based on previous unemployment history. Further, when his former coworker advised him to file his claim, he told the coworker he would not file because he did not intend to file for unemployment benefits because he had a job. The claimant’s testimony that he knew he could file a new claim for

unemployment benefits even though he did not receive information in writing is credible.

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 original 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. However, as discussed more fully below, we reject the review examiner's legal conclusion that the claimant is not entitled to a pre-date of his 2025 claim.

The legislature enacted G.L. c. 151A, § 62A(g), in order to ensure that workers are informed of the process for seeking unemployment benefits. It provides, in pertinent part, as follows:

Each employer shall issue to every separated employee, as soon as practicable, but not to exceed 30 days from the last day said employee performed compensable work, written information furnished or approved by said division which shall contain the name and mailing address of the employer, the identification number assigned to the employer by said division, instructions on how to file a claim for unemployment compensation, the address and telephone number of the regional office which serves the recipient, and the telephone number of the teleclaim information line. Delivery is made when an employer provides such information to an employee in person or by mail to the employee's last known address. The waiting period under section 23 for an employee who did not receive the information required by this paragraph and who failed to file timely for benefits, shall be the Sunday of the initial week such employee would have been eligible to receive unemployment compensation. Each employer shall have the burden of demonstrating compliance with the provisions required herein.

(Emphasis added.)

The review examiner concluded that the claimant had not shown good cause for failing to timely file his 2025 claim for unemployment benefits. The basis of the review examiner's conclusion was her belief that, although the claimant "contended" that he had not received information on how to file for unemployment benefits from the employer, because his coworker told him that he could file a claim, he was aware of his right to file for benefits. Consolidated Finding # 5. We disagree with the review examiner's conclusion, as the claimant's knowledge regarding his right to file a claim for unemployment benefits is immaterial in this case.

Pursuant to G.L. c. 151A, § 23(b), 24(c), and 430 CMR 4.01(3) and 4.01(4), a claim effective date may be pre-dated under certain circumstances, if good cause for the delay in reopening the claim is established. In this case, regardless of whether the review examiner determined the claimant did not have good cause, G.L. c. 151A, § 62A(g), mandates granting a pre-date if the claimant's

former employer does not provide him with written information about how to file an unemployment claim.

Because, after remand, the review examiner found that the claimant's previous employer did not provide him with written notice about how to file an unemployment claim, the claimant is, by operation of law, entitled to have the effective date of his reopened claim made retroactive to the Sunday of the initial week that he would have been eligible for unemployment compensation after he separated from the employer. As the claimant separated from his previous employer on April 15, 2025, the Sunday of the initial week he would have been eligible after separating is April 13, 2025. *See Consolidated Finding # 1.*

We, therefore, conclude as a matter of law that pursuant to the requirements of G.L. c. 151A, § 62A(g), the claimant is automatically entitled to have his claim pre-dated.

The review examiner's decision is reversed. The claimant is entitled to have the effective date on his claim pre-dated to April 13, 2025.



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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.

SVL/rh