

The claimant is automatically entitled to have his reopened 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
100 Cambridge Street, Suite 400
Boston, MA 02114
Phone: 617-626-6400
Fax: 617-727-5874**

**Paul T. Fitzgerald, Esq.
Chairman
Charlene A. Stawicki, Esq.
Member
Michael J. Albano
Member**

Issue ID: 352-MNH9-R549

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 filed a claim for unemployment benefits with the DUA, effective October 20, 2024. He subsequently separated from his position with the employer on May 24, 2025, but did not reopen his claim at that time. The claimant later requested a pre-date to reopen his 2024 claim effective June 1, 2025.¹ His request to pre-date the claim was denied in a determination issued on July 22, 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 the request to pre-date the claim in a decision rendered on August 30, 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 reopen 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). 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 is not entitled to a pre-date, even though his former employer failed to give him written notice of how to file a claim, 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. The claimant opened an unemployment claim effective for [sic] 10/24/2024.

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).

2. The claimant returned to work after he filed his unemployment [sic].
3. In 5/2025, the claimant worked for two employers.
4. The claimant's last physical day working for the instant employer was 5/24/2025, when he informed the instant employer that he resigned for a new job.
5. The instant employer did not provide the claimant with information about his right to file an unemployment claim because he told them he quit for new work.
6. The claimant worked his last physical day on 5/26/2025 from his second employer. The second employer did not provide the claimant with information about his right to file an unemployment claim.
7. On 5/27/2025, the claimant moved out of state, to Connecticut, for an unpaid internship.
8. The internship was full-time.
9. At the time the claimant became separated from employment and moved to Connecticut, he did not re-open his existing claim for unemployment benefits because he had savings in his bank account he believed he could use until he found new employment.
10. After the claimant became separated from employment, he began looking for new employment.
11. On 6/29/2025, the claimant reopened his unemployment claim effective for [sic] 6/29/2025.
12. The claimant did not reopen his unemployment claim prior to 6/29/2025 because he lived off his savings and was looking for employment.
13. The claimant re-opened his claim when he began to run out of savings.

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 as follows. We reject the portion of Finding of Fact # 1 that states that the effective date of the claim is October 24, 2024, as the DUA's record-keeping system shows that the claim effective date is October 20, 2024. We further reject the portions of Findings of Fact ## 9, 12, and 13 that state that the claimant did not file immediately upon separating in May, 2025, because he was living off his savings, as this appears to be speculation by the review examiner, likely based upon the claimant's testimony

during the hearing that he reopened his claim in June because he was financially in need. In adopting the remaining findings, we deem them to be supported by substantial and credible evidence. 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 2024 reopened 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 reopen his 2024 claim for unemployment benefits. The basis of the review examiner's conclusion was her belief that, although the claimant had not received information on how to file for unemployment benefits from the employer, because he had already opened an unemployment claim, he was aware of his right to file for benefits or reopen his existing claim. We disagree with the review examiner's conclusion, as the claimant's knowledge regarding his right to reopen his 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 reopen effective date may be pre-dated under certain circumstances, if good cause for the delay in reopening the claim is established. As noted above, the review examiner in this case concluded that the claimant did not provide good cause. However, 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 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. *See Finding of Fact # 5.* As the claimant separated from his previous employer on May 24, 2025, the Sunday of the initial week he would have been eligible after separating is May 25, 2025.

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 reopened claim pre-dated.

The review examiner's decision is reversed. The claimant is entitled to have the effective date on his reopened claim pre-dated to May 25, 2025.

BOSTON, MASSACHUSETTS
DATE OF DECISION - October 20, 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.

SVL/rh