

**The claimant resigned after accepting an offer to be an independent contractor with a new company. Although she was subsequently offered new, full-time employment with another company, she had not received this offer prior to the date she resigned. Held she did not resign her position to accept new, permanent full-time employment within the meaning of G.L. c. 151A, § 25(e), because independent contractor work is not considered employment under G.L. c. 151A.**

**Board of Review  
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**Charlene A. Stawicki, Esq.  
Member  
Michael J. Albano  
Member**

**Issue ID: 352-MTNN-NH6K**

### Introduction and Procedural History of this Appeal

The employer appeals a decision by a review examiner of the Department of Unemployment Assistance (DUA) to award unemployment benefits. We review, pursuant to our authority under G.L. c. 151A, § 41, and reverse.

The claimant separated from her position with the employer on March 31, 2025. She reopened her 2024 claim for unemployment benefits with the DUA, effective April 6, 2025, which was denied in a determination issued on June 17, 2025. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits attended only by the claimant, the review examiner overturned the agency's initial determination and awarded benefits in a decision rendered on August 2, 2025. We accepted the employer's application for review.

Benefits were awarded after the review examiner determined that the claimant resigned her position with the instant employer to accept new, full-time employment with a new employer and subsequently separated from that employer under non-disqualifying circumstances and, thus, was not disqualified under G.L. c. 151A, § 25(e). After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the employer's appeal, we afforded the parties an opportunity to submit written reasons for agreeing or disagreeing with the decision. Neither party responded. 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 entitled to benefits because she left her position with the instant employer in order to accept new full-time employment and subsequently separated from that employment for urgent, compelling, and necessitous reasons due to childcare, 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. From October 21, 2024, until March 28, 2025, the claimant worked as a full-time member advocate for the instant employer, a health insurance company.
2. The instant employer paid the claimant \$24 per hour.
3. Sometime within late February 2025, the claimant received a job offer for a caretaker position contracted with a private healthcare company (company A) as a 1099 independent contractor. She accepted the offer, and the work was expected to begin sometime in mid-April 2025.
4. From late February 2025 until mid-March 2025, the claimant was awaiting her finalized work schedule from company A. It was understood that her work schedule would vary each week, depending on the patient's needs.
5. Sometime in mid-March 2025, the claimant provided the instant employer with her resignation letter and provided two weeks' notice effective March 31, 2025.
6. On March 27, 2025, the claimant received another job offer as a receptionist within a medical office (company B). The work schedule was Monday through Friday, 8:30 a.m. to 5:00 p.m. The position was permanent, full-time, paid \$26 per hour and included benefits as a W-2 employee. The start date would be March 31, 2025.
7. The claimant accepted the receptionist position with company B due to the consistent hours and benefits.
8. After accepting the position with company B, the claimant did not proceed with her pending work for company A.
9. The claimant's last day of work with the instant employer was March 28, 2025.
10. The claimant quit working for the instant employer because of her new employment with company B.
11. The claimant began working for company B on March 31, 2025.
12. On March 31, 2025, the claimant started her full-time job with company B where she worked until her separation on April 8, 2025. The claimant's employment at company B ended because she lost her daycare voucher and did not have childcare.
13. The claimant filed a claim for unemployment benefits effective June 1, 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. Upon such review, the Board adopts the review examiner's findings of fact and deems 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 entitled to benefits.

The review examiner initially awarded the claimant benefits pursuant to G.L. c. 151A, § 25(e), which provides in pertinent part, as follows:

No disqualification shall be imposed if such individual establishes to the satisfaction of the commissioner that he left his employment in good faith to accept new employment on a permanent full-time basis, and that he became separated from such new employment for good cause attributable to the new employing unit.

Under this provision of G.L. c. 151A, § 25(e), it is the claimant's burden to establish that she left her job with the instant employer in good faith to accept an offer of permanent, full-time employment with another employer, and that she subsequently became separated from her new employment for non-disqualifying reasons.

The review examiner concluded that the claimant had met her burden because she accepted an offer of full-time employment working as a receptionist at another company on March 27, 2025. *See Findings of Fact ## 6 and 7.* While this offer likely met the criteria for new employment on a permanent full-time basis, the claimant was not offered the receptionist position until after she had resigned in mid-March, 2025. *Findings of Fact # 3, 5, and 6.* Consistent with the claimant's testimony, the review examiner's findings of fact show that the claimant made the decision to resign from her position with the instant employer because she had accepted an offer of work as an independent contractor in late February, 2025. *Findings of Fact ## 3–5.* Given these facts, the question of the claimant's eligibility for benefits turns on whether this offer of independent contractor work constituted an offer of permanent, full-time employment with another employer.

Pursuant to the provisions of G.L. c. 151A, §§ 1(k) and 2, the services performed by individuals classified as independent contractors are excluded from the definition of "employment" in G.L. c. 151A. Because the claimant resigned in anticipation of starting work as an independent contractor, the claimant did not meet her burden to show that she separated from her position in order to accept an offer of full-time employment within the meaning of G.L. c. 151A, § 25(e). *See Board of Review Decision 0071 5657 49 (Aug. 29, 2023).*

We, therefore, conclude as a matter of law that the claimant has not satisfied her burden to show that she left her employment in good faith to accept new employment on a permanent full-time basis pursuant to G.L. c. 151A, § 25(e).

The review examiner's decision is reversed. The claimant is denied benefits for the week of March 29, 2025, and for subsequent weeks, until such time as she has had at least eight weeks of work and has earned an amount equivalent to or in excess of eight times her weekly benefit amount.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - September 30, 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](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.

LSW/rh