

**Although the passing of her father and her mother’s illness may have created urgent, compelling, and necessitous reasons to be a no-call, no show the first time, the claimant did not demonstrate that she made reasonable efforts to preserve her employment when she failed to call in a second time, since she had just done so a week earlier. Held the claimant is disqualified under G.L. c. 151A, § 25(e)(1).**

**Board of Review  
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**Issue ID: 352-MV4K-8P6K**

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 June 13, 2025. She filed a claim for unemployment benefits with the DUA, effective June 8, 2025, which was denied in a determination issued on September 3, 2025. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits attended by both parties, the review examiner overturned the agency’s initial determination and awarded benefits in a decision rendered on October 10, 2025. We accepted the employer’s application for review.

Benefits were awarded after the review examiner determined that the claimant had not engaged in deliberate misconduct in wilful disregard of the employer’s interest or knowingly violated a reasonable and uniformly enforced rule or policy of the employer and, thus, was not disqualified under G.L. c. 151A, § 25(e)(2). 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 employer’s appeal.

The issue before the Board is whether the review examiner’s decision, which concluded that the claimant did not quit her job and was eligible for benefits under G.L. c. 151A, § 25(e)(2), because her failure to call out of work was not deliberate where she forgot to do so as she was planning her father’s funeral and dealing with an ill mother, 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 worked part-time for the employer, a hotel, as a housekeeper from February 9, 2023, to December 6, 2024. The claimant [sic] rate of pay was \$17.65 per hour.

2. The employer maintains an attendance policy in its employee handbook.
3. The attendance policy requires all employees to attend work as scheduled, on time. If an employee is not able to attend work, they are to contact the employer prior to the start of their shift to inform them of their absence. First instance of a no call/no show will result in a one-day suspension. The second instance of a no call/no show within a twelve-month period will be considered job abandonment and the employee will be terminated
4. The claimant testified that she was aware of the policy and the employer's expectation of notice of absence prior to the start of a shift.
5. From December 6, 2024, to December 5, 2025, the claimant was approved for Paid Family Medical Leave of Absence as needed to take care of her father up to five-days per week. The claimant was informed that she would maintain her schedule and needed to call out for every shift that she was going to be absent.
6. The claimant maintained her schedule of Thursday, Friday, Saturday 4:00 p.m. to 12:45 [a.m.] The claimant called out per policy every shift that she took off to take care of her father per the family medical leave.
7. On March 27, 2025, the claimant was scheduled to work. The claimant did not appear for work and did not contact her employer.
8. On March 28, 2025, the claimant was scheduled to work. The claimant did not appear for work and did not contact her employer.
9. In mid-April, the claimant was informed that based on the no call/show of March 27-28, 2025, the employer would be suspending the claimant for 1-day per the attendance policy. The importance of informing the employer of absences every shift was discussed.
10. On April 17, 2025, the employer implemented the claimant's 1-day suspension.
11. On April 19, 2025, the claimant's father passed away. The claimant notified her employer.
12. The claimant was next scheduled to work April 24, 2025, April 25, 2025, and April 26, 2025.
13. On April 24, 2025, the claimant called out of work due to the loss of her father.
14. On April 25, 2025, the claimant called out of work due to the loss of her father.
15. On April 26, 2025, the claimant called out of work due to the loss of her father.

16. The claimant was next scheduled to work May 1, 2025, May 2, 2025, and May 3, 2025.
17. The claimant's father's funeral service was May 5, 2025. The claimant was responsible for planning the event and raising the funds to pay for the service.
18. On May 1, 2025, the claimant did not appear for her work shift and the claimant forgot to call and inform the employer that she would not be at work.
19. On May 2, 2025, the claimant did not appear for her work shift and the claimant forgot to call and inform the employer that she would not be at work.
20. On May 3, 2025, the claimant did not appear for her work shift and the claimant forgot to call and inform the employer that she would not be at work.
21. On May 7, 2025, the assistant executive housekeeper called the claimant to discuss the no show/no call for her last shifts. The claimant explained that her mother was recovering from surgery, she was busy with planning and figuring out how to pay for her father's funeral, and her mind was not in the right place with losing her father, that she forgot to call out for the shifts.
22. On May 16, 2025, the claimant was placed on suspension pending further investigation.
23. On June 13, 2025, the claimant's employment was terminated for violation of the attendance policy, no call/no show second instance within a twelve-month period.

### 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 Finding of Fact # 6 insofar as it states that the claimant called out *every shift* she took off to care for her father. This is unsupported by the record and inconsistent with Findings of Fact ## 7–8 and 18–20. 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 entitled to benefits.

The review examiner found that the claimant was terminated for violating the employer's attendance policy by having a second instance of a no call/no show within a twelve-month period. *See* Finding of Fact # 22. She concluded that the claimant had not quit and analyzed the claimant's eligibility for benefits under G.L. c. 151A, § 25(e)(2).

However, in Olechnicky v. Dir. of Division of Employment Security, 325 Mass. 660, 661 (1950), the Supreme Judicial Court upheld the Board of Review's conclusion that the failure of an

employee to notify his employer of the reason for absence is tantamount to a voluntary leaving of employment within the meaning of G.L. c. 151A, § 25(e)(1). Here, the claimant did not report for work or notify her employer on May 1, May 2, and May 3, 2025. Therefore, we analyze her eligibility for benefits under the following provisions of G.L. c. 151A, § 25(e), which provide, in pertinent part, as follows:

[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 (1) voluntarily unless the employee establishes by substantial and credible evidence that he had good cause for leaving attributable to the employing unit or its agent . . . [or] if such individual established to the satisfaction of the commissioner that his reasons for leaving were for such an urgent, compelling and necessitous nature as to make his separation involuntary.

These provisions expressly provide that the claimant bears the burden to prove good cause attributable to the employer or urgent, compelling, and necessitous circumstances.

When a claimant contends that the separation was for good cause attributable to the employer, the focus is on the employer's conduct and not on the employee's personal reasons for leaving. Conlon v. Dir. of Division of Employment Security, 382 Mass. 19, 23 (1980). Nothing in the record suggests that the employer did or failed to do anything to cause the claimant not to report to work or call in. Thus, the claimant did not establish that she stopped working for good cause attributable to the employer.

We next consider whether the claimant established urgent, compelling, and necessitous reasons for her separation. “[A] ‘wide variety of personal circumstances’ have been recognized as constituting ‘urgent, compelling and necessitous’ reasons under G.L. c. 151A, § 25(e)(1), which may render involuntary a claimant’s departure from work.” Norfolk County Retirement System v. Dir. of Department of Labor and Workforce Development, 66 Mass. App. Ct. 759, 765 (2009), quoting Reep v. Comm’r of Department of Employment and Training, 412 Mass. 845, 847 (1992).

In this case, the claimant was dealing with her father’s death, planning and figuring out how to pay for her father’s funeral, and her mother’s recovery from surgery. See Findings of Fact ## 11, 17, and 21. Either a death in the family or a need to care for a family member may constitute urgent, compelling, or necessitous circumstances.

However, to qualify for benefits, the claimant must also show that she made such reasonable attempts to keep her job that would indicate her “desire and willingness to continue her employment.” Norfolk County Retirement System v. Dir. of Department of Labor and Workforce Development, 66 Mass. App. Ct. 759, 766 (2009), quoting Raytheon Co. v. Dir. of Division of Employment Security, 364 Mass. 593, 597–98 (1974). In this case, the claimant did not make such efforts.

Under the terms of her leave of absence, the claimant was required to call out for every shift she was going to be absent. Finding of Fact # 5. After she failed to report to work or call out on March 27 and March 28, 2025, she was given a one-day suspension and reminded of the importance of informing the employer of every shift she was going to be absent. Findings of Fact # 9. After her

father died, she called out for her next three scheduled shifts. Findings of Fact ## 11–15. Thus, the claimant was well aware of the need to call out every time she was going to be absent from work.

Nothing in the record indicates that the claimant made any effort to call out for her scheduled shifts on May 1, May 2, and May 3, 2025. Rather, the findings show the claimant “forgot” to call out because “her mind was not in the right place” due to her father’s death and her mother’s recovery from surgery. See Findings of Fact ## 16 and 18–21. Given that the claimant was able to remember to call out for her next three shifts immediately after her father died, we fail to see a reasonable basis for forgetting to do so a week later. Therefore, the claimant did not establish that she made reasonable efforts to preserve her job.

We, therefore, conclude as a matter of law that the claimant has not met her burden to show that she resigned her position for good cause attributable to the employer or for urgent, compelling, and necessitous reasons under G.L. c. 151A, § 25(e).

The review examiner’s decision is reversed. The claimant is denied benefits for the week ending June 14, 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 - December 23, 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.

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