

The claimant, who failed to report to or call out from work for five scheduled shifts, abandoned her job. Her claim that she believed she would be discharged for her next attendance infraction did not constitute good cause attributable to the employer for quitting. Further, where she failed to establish that she had any medical conditions that impacted her attendance, she failed to establish urgent, compelling, and necessitous reasons for resigning. Held she is ineligible for benefits pursuant to G.L. c. 151A, § 25(e)(1).

**Board of Review
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Issue ID: 352-N3KH-NRT6

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 affirm.

The claimant was separated from her position with the employer on or about May 25, 2025, after last working for the employer on May 15, 2025. She filed a claim for unemployment benefits with the DUA, effective June 8, 2025, which was approved in a determination issued on September 9, 2025. The employer appealed the determination to the DUA hearings department. Following a hearing on the merits attended only by the employer, the review examiner overturned the agency's initial determination and denied benefits in a decision rendered on October 23, 2025. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant voluntarily left employment without good cause attributable to the employer and without urgent, compelling, and necessitous reasons and, thus, was disqualified under G.L. c. 151A, § 25(e)(1). 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 testimony and other evidence, including documentary evidence of alleged medical issues, which the claimant raised in her appeal to the Board. Both parties attended the remand hearing. Thereafter, the review examiner issued her consolidated findings of fact and credibility assessment. 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 initiated her own separation by being a no-call/no-show for five consecutive work shifts, and that she failed to establish good cause attributable to the employer or urgent, compelling, and necessitous reasons for doing so, 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. In November 2023, the claimant began working for the employer, a retail store. The claimant separated from the employer in July 2024. The claimant was rehired by the employer in February 2025.
2. Most recently, the claimant worked as a part-time asset protection services team associate for the employer.
3. The claimant's job with the employer was the claimant's only job. She did not have another concurrent employer.
4. The claimant's direct supervisors were the employer's asset protection team leads.
5. At hire, the claimant received the employer's policies.
6. Part of the employer's policies is a No Call/No Show policy that states that "If you are absent from a scheduled shift and do not report the absence, and your absence is not authorized, you will receive a total of two (2) occurrences/points for failing to report, and one (1) for the absence itself, resulting in a total of three (3) occurrences/points. If you do not report an absence on time, and after the fact your absence is authorized according to this policy (e.g., use of Protected PTO) or your relevant state-specific authorized absences, you may still be held accountable for the two (2) occurrences for the no call/no show..."
7. Part of the employer's policies is a voluntary termination policy that states that "If you are absent from your scheduled shift for three consecutive workdays and do not report your absences appropriately, we will consider you to have abandoned your job, which will result in your voluntary termination of employment."
8. On April 18, 2025, the claimant had a meeting with her supervisors. During the meeting, the supervisors told the claimant that if she reached five attendance points, the employer would discharge her.
9. As of April 18, 2025, the claimant had four attendance points.
10. The claimant last reported to work for the employer on May 15, 2025.
11. The claimant called out from work on May 16, 2025. She called out using the employer's app and indicated that the absence was due to illness or injury.
12. The May 16, 2025, call out resulted in an attendance point, bringing the claimant's attendance points to five total points.

13. Because the employer had told the claimant that accumulating five attendance points would lead to a discharge, the claimant assumed that the employer was going to discharge her after her May 16, 2025, call out.
14. On May 16, 2025, the employer never reached out to the claimant to notify her that she was discharged. The employer did not terminate her employment after the May 16, 2025, call out.
15. After May 16, 2025, the claimant stopped showing up for work and stopped calling out from work. She was a no call no show on May 18, 19, 22, 23, and 25, 2025. She neither reported to work, nor contacted the employer to notify them of her absences. The employer attempted to call her on these days, but they were not able to reach her.
16. The claimant quit her position with the employer via job abandonment when she was a no call no show on May 18, 19, 22, 23, and 25, 2025.
17. Since being rehired by the employer in February 2025, the claimant never requested a medical accommodation, nor did she apply for any leave of absence. She also never reported any specific medical conditions to the employer.

Credibility Assessment:

The employer's unemployment hearings representative attended the initial telephone hearing on October 21, 2025, and the remand hearing held on December 29, 2025. She testified on behalf of the employer, based on the employer's business records, and based on her discussions with the claimant's supervisors and management team. Her testimony was consistent during both sessions and matched the employer's business records such as the claimant's attendance records.

The claimant did not attend the initial hearing, but she attended the remand hearing. The claimant's testimony at the remand hearing was hazy, whereby the claimant was unable to provide specific relevant facts. For example, she could not recall her actual last date worked and her specific reasons for calling out. She could not recall the reason for her final call out on May 16, 2025. Furthermore, the claimant's testimony did not match her submissions to the DUA. While the claimant alleged in her DUA submissions that her attendance issues were because of her medical conditions, her sworn testimony indicated that her medical conditions had no bearing on her attendance issues. She testified that her attendance issues were in fact unrelated to her medical issues but were due to her caring for her 90-year-old father and having to take him to medical appointments. She oscillated between completely denying having any medical conditions at all, to stating that her medical conditions are private, to conceding that she did in fact have some medical conditions. She failed to provide any medical documentation to the DUA as requested by the Board of Review. Considering the totality of these circumstances, the review examiner found the claimant not to be credible and does not credit her testimony. As such, the employer's witness, whose testimony is consistent and is

corroborated by relevant business records, is found to be more credible. Therefore, the employer's account of events is credited as more plausible.

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. After remand, we affirm the review examiner's initial decision to deny benefits.

In this case, the claimant's employment ended when she failed to call out or report for work on May 18, 19, 22, 23, and 25, 2025. *See Consolidated Finding # 15*. As such, we treat her separation as a resignation. Olechnicky v. Dir. of Division of Employment Security, 325 Mass. 660, 661 (1950) (upholding 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)).

G.L. c. 151A, § 25(e), provides, 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 . . . An individual shall not be disqualified from receiving benefits under the provisions of this subsection, if such individual establishes 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.

G.L. c. 151A, § 25(e)(1), expressly assigns the burden to the claimant to establish that her separation was for good cause attributable to the employer or due to urgent, compelling, and necessitous reasons.

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). Based on the employer's undisputed testimony at the original hearing, the review examiner initially concluded that the claimant had not met her burden. After remand, we agree with the review examiner's conclusion.

Initially, the review examiner found that the claimant initiated her own separation by failing to report to work or to notify the employer that she would be absent on May 18, 19, 22, 23, and 25, 2025. After remand, the review examiner's consolidated finding on this point was essentially unchanged. The claimant neither reported to work nor contacted the employer on any of these

dates, and the employer's efforts to contact the claimant on these days were unsuccessful. *See Consolidated Finding # 15.*

After remand, the review examiner added consolidated findings stating that the claimant met with her supervisors on April 18, 2025. At that meeting, she was told that she had reached four attendance points and that, if she reached five attendance points, the employer would discharge her. *See Consolidated Findings ## 8–9.*

After the April 18 meeting, the claimant last worked for the employer on May 15, 2025. *See Consolidated Finding # 10.* She called out from work on May 16, 2025, notifying the employer's attendance app that her absence was due to illness or injury. *See Consolidated Finding # 11.* Thereafter, the claimant assumed that the employer was going to discharge her for attendance, and she stopped showing up for work or calling out. *See Consolidated Findings ## 13 and 15.* However, the employer did not discharge the claimant for her call-out on May 16, 2025. *See Consolidated Finding # 14.* Instead, the employer attempted to contact the claimant when she did not report to work on the five days at issue between May 18 and 25, 2025. *See Consolidated Finding # 15.*

By itself, the claimant's mistaken belief that her absence due to illness on May 16 meant that she was discharged does not constitute good cause attributable to the employer for failing to report for her next scheduled shift. Indeed, the claimant could have reported to work as scheduled or called the employer to confirm her employment status. Because nothing in the record shows that the employer acted unreasonably in any regard, the claimant has not established that she quit for good cause attributable to the employer.

We had remanded the case because the claimant contended on appeal to the Board that she suffered from at least two specific medical conditions that allegedly prevented her from being able to work without experiencing pain.¹ Our standard for determining whether a claimant's reasons for leaving work are urgent, compelling, and necessitous has been set forth by the Supreme Judicial Court. We must examine the circumstances in each case and evaluate "the strength and effect of the compulsive pressure of external and objective forces" on the claimant to ascertain whether the claimant "acted reasonably, based on pressing circumstances, in leaving employment." Reep v. Comm'r of Department of Employment and Training, 412 Mass. 845, 848, 851 (1992).

In view of the claimant's contentions on appeal, our remand order afforded the parties an opportunity to submit into evidence any medical documentation that the claimant provided to the employer between January 1, 2025, and her separation on or about May 26, 2025; as well as any documentation the claimant obtained regarding any medical treatment she sought during that same time frame. *See Remand Exhibit # 15.* Neither party provided any documentation. Consequently, the review examiner found that the claimant never requested any medical accommodation from

¹ For some reason, the claimant's electronic appeal to the Board, dated November 13, 2025, was not incorporated into the remand exhibits for the remand hearing. While not explicitly incorporated into the Appeal Case Folder for the remand hearing, the claimant's appeal to the Board is part of the unchallenged evidence before the review examiner and the Board, and it is thus properly referred to in our decision today. *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).

the employer, that she did not apply for a leave of absence, and that she never reported any specific medical conditions to the employer. *See Consolidated Finding # 17.*

To further support her consolidated findings, the review examiner issued a credibility assessment noting that the claimant's testimony about her alleged medical conditions vacillated so drastically that she found the claimant not to be credible and did not credit her testimony. 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).

In this case, where the claimant did not provide any evidence to establish that her separation was attributable to any medical conditions she was experiencing around the time of her separation, she has failed to establish that she quit for urgent, compelling, and necessitous reasons.

Even if we concluded that the claimant established urgent, compelling, and necessitous reasons or good cause attributable to the employer for quitting, an employee who quits also has the burden to show that she made a reasonable attempt to preserve her employment before leaving, or that such attempt would have been futile. *Guarino v. Director of Division of Employment Security*, 393 Mass. 89, 93-94 (1984).

As noted above, the claimant failed to report to (or call out from) all of her scheduled shifts after May 16, 2025, or to call the employer to confirm her employment status. Further, she failed to produce any evidence that her ability to work was compromised by any specific medical conditions. Where the employer credibly testified that they tried to contact the claimant when she failed to report to work as scheduled, the claimant has not demonstrated that further efforts to preserve her job would have been futile. In short, the claimant failed to make a reasonable effort to preserve her job before abandoning it.

We, therefore, conclude as a matter of law that the claimant voluntarily left her employment without good cause attributable to the employer and without an urgent, compelling, and necessitous reason, pursuant to G.L. c. 151A, § 25(e)(1).

The review examiner's decision is affirmed. 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 - February 12, 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

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.

JPCA/rh