Held the employing unit met its burden to show services provided by CDL drivers met all three prongs under G.L. c. 151A, § (2). The drivers retained freedom over the details of the routes they drove and the deliveries they made. Such work was performed outside the employing unit's place of business, and all drivers were capable of and free to perform similar services for any competitor or other company.

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

Issue ID: SEC2-21-023

Introduction and Procedural History of this Appeal

The employer appeals a decision by a review examiner of the Department of Unemployment Assistance (DUA) which concluded that services performed by Owner/Operators for the employing unit constituted employment within the meaning of G.L. c. 151A, § 2. We review, pursuant to our authority under G.L. c. 151A, § 41, and reverse.

On August 27, 2020, the DUA's Revenue Audit Division issued a determination that the services performed by the Owner/Operators constituted employment. The employing unit appealed the determination to the DUA hearings department. Following a hearing on the merits, attended by the employing unit and a representative from the Revenue Audit Division, the review examiner affirmed the agency's determination in a decision rendered on December 6, 2022.

The review examiner concluded that the employing unit had not carried its burden with respect to G.L. c. 151A, § 2(a) or (c), and, thus, the services performed by the Owner/Operators constituted employment. After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the employing unit's appeal, we accepted the employing unit's application for review. 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 employing unit did not carry its burden under G.L. c. 151A, § 2, to show that the services performed by the Owner/Operators did not constitute employment, is supported by substantial and credible evidence and free from error of law

Findings of Fact

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

1. The employer is a Massachusetts Corporation located in [City A], Massachusetts.

2. The employer is a transportation business.

3. The employer is licensed by the United States Department of Transportation (DOT), to transport federally regulated goods intrastate.

4. The employer is licensed by the DOT as a Motor Carrier which authorizes the employer to transport federally regulated goods interstate.

5. The employer, pursuant to DOT regulations, is responsible for all drivers and vehicle compliance.

6. The employer, pursuant to DOT regulations, is responsible for monitoring drivers' hours driven, drug testing, reporting accidents, and tax filings with the International Fuel Tax Association. (ITFA).

7. The employer, as a Motor Carrier, is responsible for Owner/Operator accidents while operating under their authority.

8. The employer transports, exclusively, motor vehicles.

9. The value of a single vehicle being transported may range from $100,000.00 to $200,000.00.

10. The employer arranges transport of vehicles nationwide in enclosed car carriers.

11. The employer has 20 employees, either salary or hourly, who are provided health insurance, dental insurance, life insurance, a 401K retirement plan, and paid time off.

12. The employer leases 6 tractors from a tractor leasing company.

13. Six (6) of the employer's employees operate the leased tractors and "do specific moves" of vehicles for the employer.

14. During 2017, the employer executed a **MASTER LEASE AGREEMENT** with each of the following individuals/entities, respectively, to transport vehicles interstate:

    a. [Individual A]
    b. [Individual B]
    c. [Individual C]
    d. [Individual D]

15. The **MASTER LEASE AGREEMENT**, entered into by [Individual A], Exhibit 2, which is set forth below in its entirety, is representative of the **MASTER LEASE AGREEMENT** entered into by each of the other above-named individuals/entities:

    [Image redacted]

16. Each individual/entity owned and operated their own tractor (here-in-after referred to as Owner/Operator(s)).

17. Each Owner/Operator leased their tractors to the employer.

18. None of the Owner/Operators were licensed by the DOT.

19. None of the Owner/Operators had Motor Carrier authority and could not transport federally regulated goods interstate.

20. Each Owner/Operator transported vehicles under the employer's DOT license and Motor Carrier authority.

21. Each Owner/Operator was prohibited from transporting goods for other motor carriers when operating under the employer's DOT license and Motor Carrier authority.

22. Each Owner/Operator was prohibited from operating any other motor carrier's equipment when operating under the employer's DOT license and Motor Carrier authority.

23. Each Owner/Operator agreed to maintain their tractor.

24. The employer inspected the tractor for safety to ensure it was in compliance with DOT requirements.

25. Each Owner/Operator agreed to keep DOT required records.

26. The employer required each Owner/Operator to keep DOT required records to ensure it was in compliance with DOT requirements.

27. Each Owner/Operator paid for their fuel, oil, tolls, traffic citations, helpers, and their employees.

28. The employer provided cargo straps to Owner /Operators. (ARTICLE 19(A) - STRAPS).

29. Each Owner/Operator purchased car covers for vehicles being transported.

30. The employer sold clothing with its name affixed. Owner/Operators were not required to purchase employer clothing or wear employer clothing.

31. Owner/Operators were required to be Class A Driver compliant, which included a valid license, valid registration, license plates, permits, decals, medical card, clean driving record, and negative drug test results.

32. Each Owner/Operator was required to comply with DOT physical examinations at their own expense and undergo drug testing. (ARTICLE 16 - SUBSTANCE ABUSE)

33. At the end of each trip the Owner/Operator submitted a federally required Bill of Lading; industry standard pick-up and drop-off inspection reports; a trip sheet with start and end dates, and miles traveled, and a fuel record with fuel costs, the number of miles traveled and states traveled.

34. Bills of Lading and inspection reports stated both the employer's name, Intercity Lines, Inc., and the Owner/Operator's name.

35. The employer provided a specialized enclosed trailer if an Owner/Operator did not have a trailer. The trailer carried a maximum of 6 vehicles.

36. An Owner/Operator was permitted to use his own specialized trailer.

37. Each Owner/Operator was provided training to ensure they could safely transport vehicles with the employer's specialized trailer which took about 30 minutes to one hour.

38. The employer offered compensation of 65% of the gross transport fee.

39. An Owner/Operator was free to negotiate a greater percentage.

40. The employer, upon agreement of 65% compensation to the Owner/Operator, received 35% of the fee which included the cost of maintaining the specialized car carrier used by the Owner/Operator.

41. Compensation terms were set forth in the **MASTER LEASE AGREEMENT**.

42. The employer may offer an Owner/Operator 5% or 10% more for a "VIP Customer" outside of the **MASTER LEASE AGREEMENT**.

43. Owner/Operators were not guaranteed any number of trips per month or year, or a certain amount of compensation.

44. Customers paid the employer directly.

45. Owner/Operators were paid their percentage of a trip by direct deposit after submission of the required paperwork, about two weeks after the trip ended.

46. The employer deducted from an Owner/Operators' 35% compensation fuel taxes and filed it with IFTA.

47. In the event of a breakdown which required another driver to complete an Owner/Operator's trip, the substitute driver was paid from the Owner/Operator's 35% compensation.

48. Owner/Operators were not provided health insurance, dental insurance, life insurance, 401K contributions, or paid time off.

49. The employer does not withhold federal or states taxes from an Owner/Operator's compensation.

50. The employer issued a Federal Income Tax Form 1099 to Owner/Operators.

51. The employer, as required by DOT regulations, insured the trailer and cargo. (ARTICLE 10 - MAINTENANCE OF TRAILERS AND TRAILER INSURANCE).

52. Owner/Operators were required to pay the trailer and cargo deductibles in the event of damage to either.

53. Owner/Operators were responsible for insuring their tractors.

54. The employer provided customers with a quote and estimated delivery time.

55. The employer offered deliveries in an east to west direction and a north to south direction.

56. An Owner/Operator was free to decline the delivery of a particular vehicle.

57. The employer would decline a customer if no Owner/Operator accepted a particular delivery.

58. An Owner/Operator was not required to take the most direct route. The employer only required the route to be "reasonable."

59. The order of pick-up was left to the Owner/Operator.

60. An Owner Operator was on the road about 3 ½ to 4 ½ weeks at a time.

61. What hours and the number of hours the Owner/Operator drove was left to the Owner/Operator provided the Owner/Operator complied with DOT regulations which limited driving to 11 hours per day and a total of 14 hours work per day.

62. The Owner/Operator was required to have a placard affixed to their tractor with the employer's name. Intercity Lines, Inc, the employer's DOT Number, the employer's [Motor Carrier] Number and the Owner/Operator's Vehicle Identification Number (VIN). (ARTICLE 9 - IDENTIFICATION)

63. The Owner/Operator was required, within 90 days of execution of the **MASTER LEASE AGREEMENT**, to have the leased tractor painted white, lettered and striped so it was similar in appearance to the employer's equipment. (ARTICLE 9 - IDENTIFICATION)

64. The employer did not enforce ARTICLE 9 painting requirement.

65. "Team "Driving", having another driver on a trip was allowed by the employer provided the Owner/Operator obtained prior permission from the employer. (ARTICLE 15 - NO RIDES)

66. The Owner/Operator was required to obtain prior permission for "Team Driving" from the employer due to insurance coverage requirements which required the "Team Driver" to meet DOT licensing requirements and clearing the Drug and Alcohol Clearing House.

67. Non-driving passengers are allowed by the employer with prior permission. The employer was also required to notify his insurer of non-driving passengers.

68. Six (6) vehicles are initially scheduled for transport.

69. The Owner/Operator arranges dates and times of pick-ups and drop-offs directly with customers as well as changes to such pick-up and drop-off times.

70. A trip starts when an Owner/Operator begins loading vehicles the Owner/Operator has agreed to transport.

71. An Owner/Operator may deliver as many as 18 vehicles during a round trip based upon drop-offs and additional pick-ups during the course of the trip.

72. A trip ends when the last vehicle is delivered.

73. "Deadhead" is when an owner/operator is travelling to a location with no cargo in the trailer.

74. Owner/Operators may park their tractor with the employer trailer attached at a location of their choosing.

75. Owner/Operators do not work at the employer's [City A], Massachusetts office.

76. Owner/Operators are not required to go to the employer's [City A], Massachusetts office.

77. Owner/Operators are not issued employer business car[d]s or assigned an employer telephone number.

78. An Owner/Operator was not required to check-in with the employer during a trip.

79. The employer was required to monitor Owner/Operators trips to ensure compliance with DOT regulations concerning driving time and hours of service.

80. The employer utilized an electronic logging device (ELD), to monitor Owner/Operators.

81. Owner/Operators paid the employer a monthly [fee] for the installation and use of the ELD. (ARTICLE 14 - QUALCOM INTEGRATED MOBILE COMMUNICATION TERMINAL AND MODEM UNIT)

82. Complaints by customers were noted by the employer. The employer does not impose discipline on an Owner/Operator.

83. Workers' Compensation insurance is required by Massachusetts law.

84. An Owner/Operator was required to provide the employer with a certificate of workers' compensation insurance, a copy of which must be on file with the employer within 60 days from the date of employment, listing the employer as a certificate holder. (ARTICLE 17- RELATIONSHIP BETWEEN THE PARTIES)

85. If an Owner/Operator did not have workers' compensation insurance, the Owner/Operator could "take" the employer's workers' compensation insurance.

86. Owner/Operators, at the termination of the **MASTER LEASE AGREEMENT** were prohibited for 2 years from competing with the employer in providing any transportation service for any account of the employer within the area served by the employer or indirectly compete, by having another party solicit employer clients on their behalf. (ARTICE 21 – NONCOMPETITION)

87. The employer has served all 49 contiguous United States.

88. [Individual A] painted lines on his tractor pursuant to the **MASTER LEASE AGREEMENT**.

89. [Individual A] wore a shirt with the employer's name affixed.

90. [Individual A] did not have his own business cards.

91. [Individual A] had refused to [sic] transports if it did not pay enough or "too big for my space."

92. [Individual A] currently leases his tractor to the employer and "would work for another carrier if his lease ended."

93. [Individual A] provided a Power Take Off (PTO), a hydraulic lift unit, which could be used when working for other businesses and other business' trailers.

94. On August 27, 2020, the Revenue Audit Division sent the employer an Employee/Employer Relationship Determination (Exhibit 22), which stated, in part:

Based on information received by this Division, it has been determined that the services performed by Owner/Operators and others similarly employed refer pg3, constitutes "employment" within the meaning of Section 2 of the Massachusetts Unemployment Insurance Law. Specifically, the information failed to show that:

● such individual is free from direction and control in connection with the performance of such services, both under contract for performance of service and in fact;

● such service is performed either outside the usual course of the employer's business or outside all of the employer's; and

● such individual is customarily engaged in an independently established business of the same nature as the service for the employer.

Therefore, you are required to report their wages and pay contributions thereon.

Pg3--- Determination "In Employment" Owner Operators
EAN#[xxxxxxxx]
[Company Name]
Audit Year 2017

1099s –

XXX-XX-9593 [Individual A]	198,712.50
XXX-XX-0916 [Individual B]	197,955.71
XXX-XX-3972 [Individual C] dba [X] LLC	150,783.09
XXX-XX-2945 [Individual D] dba [Y] LLC	263,873.47
	$811,324.77

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95. On August 27, 2020, the employer appealed the **Employee/Employer Relationship Determination**.

96. The Revenue Audit Division, based upon the Aviation Administration Act of 1994, did not consider whether such service of the Owner/Operator is performed either outside the usual course of the employer's business or outside all of the employer's places of business.

97. The Revenue Audit Division removed from consideration an Owner/Operator who had executed a **MASTER LEASE AGREEMENT** during calendar year 2017 and who was not specified on Page 3 of the August 27, 2020, **Employee/Employer Relationship Determination** named [Individual E], operating as [Z], Inc., with an address of [City B], North Carolina.

98. Though invited, the employer did not present to the Hearings [sic] within the time period set following the conclusion of testimony, any certificates of worker's compensation insurance from any Owner/Operator listing the employer as a certificate holder.

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 Findings of Fact ## 18 and 28, and the portion of Finding of Fact # 54 that states the employing unit provided customers with an estimated delivery time, as it is inconsistent with the uncontested evidence in the record. Additionally, there appears to be a typographical error in Finding of Fact # 15, which states that the Master Lease Agreement is set forth below in its "entirety." This finding omits pages 4, 6–8, and 10, of the Master Lease Agreement, so we believe that the review examiner did not intend to state that document was reproduced in its entirety. There also appear to be typographical errors in Findings of Fact # 46 and 47, which refer to the Owner/Operators' 35% compensation. As the review examiner correctly found Owner/Operators received 65% of the delivery fee in compensation, we believe that he intended to find the substitute drivers would be paid from the Owner/Operator's 65% share of the compensation. Finally, there appears to be a typographical error in Finding of Fact # 87, which states that the employing unit serves all 49 contiguous states. As there are 48 contiguous states in the United States, and as the employing unit testified that it served all 48 contiguous states, we believe that the review examiner intended to find consistent with this testimony.

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 employer has failed to meet its burden under G.L. c. 151A, § 2.

Employment is defined in G.L. c. 151A, § 2, which states, in relevant part, as follows:

> Service performed by an individual . . . shall be deemed to be employment subject to this chapter . . . unless and until it is shown to the satisfaction of the commissioner that—

> (a) such individual has been and will continue to be free from control and direction in connection with the performance of such services, both under his contract for the performance of service and in fact; and
>
> (b) such service is performed either outside the usual course of the business for which the service is performed or is performed outside of all the places of business of the enterprise for which the service is performed; and
>
> (c) such individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed.

Under this statutory provision, the burden of proof is on the employing unit and the test is conjunctive. Thus, the employing unit must meet all three prongs of this "ABC" test. Should it fail to meet any one of the prongs, the relationship will be deemed to be employment. Coverall North America, Inc. v. Comm'r of Division of Unemployment Assistance, 447 Mass. 852, 857 (2006).

Prong (a)

We analyze prong (a) under common law principles of master-servant relationships, including whether the worker is free from supervision "not only as to the result to be accomplished but also as to the means and methods that are to be utilized in the performance of the work." Athol Daily News v. Board of Review of Division of Employment and Training, 439 Mass. 171, 177 (2003), *quoting* Maniscalco v. Dir. of Division of Employment Security, 327 Mass. 211, 212 (1951). "The essence of the distinction under common law has always been the right to control the details of the performance," but "the test is not so narrow as to require that a worker be entirely free from direction and control from outside forces." Athol Daily News, 439 Mass. at 177–178.

In the present case, the review examiner concluded that the employing unit had not met its burden under prong (a) because Owner/Operators were required to paint their tractors in a color scheme consistent with the employing unit's logo, to affix a placard to their trailers listing the employing unit's DOT license number and motor carrier authorization number, and to provide customers with Bills of Lading and inspection reports bearing the employing unit's name. Findings of Fact ## 34, 62, and 63. The review examiner also found relevant evidence that the employing unit accepted payments directly from clients and then disbursed the Owner/Operator's share of that payment upon completion of a trip. Findings of Fact ## 44 and 45.

While such factors have historically been viewed as material to the analysis under prong (a) of G.L. c. 151A, § 2, the Massachusetts Court of Appeals has since issued Tiger Home Inspection, Inc. v. Dir. of Department of Unemployment Assistance, 101 Mass. App. Ct. 373 (2022), clarifying what evidence is material in assessing the extent of an employing unit's direction and control. Tiger Home Inspection concerned the services of home inspectors who were engaged by an employing unit (Tiger) to conduct home inspections for clients. In reversing the Board's conclusion that Tiger had not met its burden under prong (a), the Appeals Court explained that it was improper to rely on evidence that Tiger's office handled scheduling and payment, issued

branded shirts to inspectors, posted pictures of inspectors wearing those shirts on its website, and required inspectors print reports on its letterhead. Although such factors "may bear on the matter," the Court held that "none of them goes to the essential inquiry [under prong (a)], which is the extent of direction and control over the work of the inspectors." Id. at 378–79. Therefore, we conclude that the review examiner erred in relying on such similar factors in the decision now before the Board. *See* Findings of Fact ## 34, 44, 45, 62, and 63.

In concluding that the employing unit exercised substantial direction and control over the Owner/Operators, the review examiner also relied on provisions of the Master Licensing Agreement allowing the employing unit to inspect each Owner/Operator's tractor for compliance with all DOT regulations, and instructing all Owner/Operators to maintain all records required by the DOT, comply with all DOT-required drug testing and physical examinations, and install an electronic logging device to ensure compliance with DOT restrictions on driving time and hours worked. Findings of Fact ## 5, 25, 26, 32, 61, 62, 66, and 79–81. However, in Tiger Home Inspection, the Appeals Court held it was an error to rely on "Tiger requirements that are also regulatory requirements" because such factors were not evidence of "Tiger's direction and control." Id. at 379–80. Thus, it was inappropriate for the review examiner to rely on the provisions of the Master Licensing Agreement requiring that the Owner/Operators demonstrate compliance with DOT regulations. Findings of Fact ## 5, 25, 26, 32, 61, 62, 66, and 79–81.

Similarly, as the Commonwealth of Massachusetts requires Owner/Operators to maintain workers' compensation insurance, the provision of the Master Leasing Agreement requiring Owner/Operators to provide a certificate of workers' compensation insurance or otherwise obtain such insurance through the employing unit is also not evidence of direction and control. *See* Findings of Fact # 83–85. Instead, the Appeals Court reaffirmed that the material inquiry under prong (a) of G.L. c. 151A, § 2, turns on "two critical questions: did the person performing services (1) have the right to control the details of how the services were performed; and (2) have the freedom from supervision 'not only as to the result to be accomplished but also as to the means and methods that are to be utilized in the performance of the work'" (footnote omitted). Tiger Home Inspection, at 377 (*quoting* Subcontracting Concepts, Inc. v. Commissioner of the Div. of Unemployment Assistance, 86 Mass. App. Ct. 644, 648 (2014), *quoting* Athol Daily News, 439 Mass. at 177.) As the performance of work at issue in this case is the intrastate and interstate transportation of cars, the proper inquiry under prong (a) is to what extent the employing unit exercised direction and control over the details of the Owner/Operators' trips.

Although the Master Lease Agreement required Owner/Operators to take a reasonable route, the Owner/Operators had full freedom to plan their routes, to decide how many hours that they worked in a day (subject to DOT limitations), and to schedule or reschedule the dates and locations of pick-ups and drop-offs by communicating directly with customers. Findings of Fact ## 58, 59, 61, and 69. Although the employing unit attempted to group multiple deliveries into one trip, Owner/Operators were free to accept or decline any trip offered and could add or could decline a specific delivery in any trip they accepted. Findings of Fact ## 56 and 71. Owner/Operators would also pay for their fuel, oil, tolls, traffic citations, helpers, and manage all employment aspects of any other individuals retained to perform services for Owner/Operators. Finding of Fact # 27.

To the extent that the employing unit required Owner/Operators to obtain approval for team drivers, the purpose of such approval was to afford the employing unit the opportunity to confirm

that those other drivers met all DOT licensing requirements. Finding of Fact # 66. Similarly, the employing unit required Owner/Operators to notify the employing unit of any passengers because the employing unit was required to notify its insurer of any non-driving passengers. Finding of Fact # 65. Although these requirements impose some restrictions on the means and methods by which Owner/Operators performed, they represent only a limited exercise of control. On balance, we believe that the employing unit has met its burden under prong (a), because the Owner/Operators retained the right to control the details of performance in significant ways.

Prong (b)

Under prong (b), the employing unit may satisfy its burden by proving either that the services performed were outside the usual course of the employing unit's business, or that they were performed outside of all the places of business of the employing unit's enterprise. *See* Athol Daily News, 439 Mass. at 179. Since the Owner/Operators' services were performed on the road, we are satisfied that the employing unit meets the latter test under prong (b). Findings of Fact ## 74–76.

Prong (c)

As to prong (c), the test "asks whether the worker is 'customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed.'" Athol Daily News, 439 Mass. at 179. To determine whether the employing unit has carried its burden under prong (c), we "consider whether the services in question could be viewed as an independent trade or business because the worker is capable of performing the services [for] anyone wishing to avail themselves of the services or, conversely, whether the nature of the business compels the worker to depend on a single employer for the continuation of the services." Coverall, 447 Mass. at 858.

The review examiner found that the employing unit had not met its burden under prong (c) because the terms of the Master Lease Agreement prohibited Owner/Operators from transporting goods for other companies or use other companies' equipment while operating under the employer's DOT license and Motor Carrier authority, and the Owner/Operators required the employer's DOT license and Motor Carrier authority to transport federally regulated goods interstate. Findings of Fact # 19–22. Given the extent of these restrictions, the review examiner concluded that the Owner/Operators were compelled to depend on the employing unit for continuation of services. We disagree.

Contrary the overbroad language in Finding of Fact # 18, all Owner/Operators maintained a Class A CDL and were therefore authorized by the DOT to operate large commercial motor vehicles whether or not they were operating under the employer's DOT license and motor carrier authority. Finding of Fact # 31. Although Owner/Operators were prohibited from making deliveries for competitors while on a trip that they accepted from the employing unit, nothing in the Master Lease Agreement prevented them from accepting work from competitors while not on such trips. *See* Findings of Fact # 18–22. In fact, the employing unit testified that at least two of the four individuals with whom it contracted in 2017 also worked for its competitors either before, during,

or after their time under lease with the employer.[1] The Owner/Operator who testified also confirmed that he was free to perform the same services independently or for another company if he so chose, and that none of the equipment he was required to install prevented him from taking on any other kind of trailer or cargo. Findings of Fact ## 36, 80, 81, 92, and 93. Finally, while Owner/Operators were subject to a non-competition clause in the two years following the termination of the Master Lease Agreement, the terms of that clause only precluded Owner/Operators from independently contracting with clients that had already agreed to work with the employer. Finding of Fact # 86.

Under such circumstances, the review examiner's conclusion that the Owner/Operators were compelled to rely on the employing unit for ongoing work is unsupported by substantial evidence. Because the Owner/Operators are capable of performing the same services for anyone wishing to avail themselves of the services, it has satisfied prong (c).

We, therefore, conclude as a matter of law that the employing unit has met its burden to show that the Owner/Operators services did not constitute employment under G.L. c. 151A, § 2(a), (b), and (c).

The review examiner's decision is reversed. The services performed by the Owner/Operators were not employment, and the employing unit is not required to make contributions based on those services.

Charlene A. Stawicki

BOSTON, MASSACHUSETTS
DATE OF DECISION - November 18, 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.

[1] The employing unit's testimony in this regard is part of the unchallenged evidence introduced at the hearing and placed into the record, 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).

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.

LSW/rh