

**Work performed by telemarketing sales person, who moved to Massachusetts in the base period and worked from home, constituted services performed in Massachusetts pursuant to G.L. c. 151A, § 3.**

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

**Issue ID: SEC3-18-056**

## **BOARD OF REVIEW DECISION**

### **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 the claimant's services for the employer constituted employment under G.L. c. 151A, § 3. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On November 16, 2018, the agency initially determined that the services which the claimant had performed for the employer constituted employment and, therefore, the employer was required to report and pay contributions on the wages earned for those services to the Commonwealth of Massachusetts. The employer appealed and both parties participated in the hearing. In a decision rendered on February 5, 2019, the review examiner affirmed the agency determination, concluding that the services, which the claimant performed for the employer after she relocated to Massachusetts in May, 2018, constituted employment within the meaning of G.L. c. 151A, § 3. The Board accepted the employer's application for review.

### **Ruling of the Board**

After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the employer's appeal, we conclude that the review examiner's decision is based on substantial evidence and is free from any error of law affecting substantive rights.<sup>1</sup>

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<sup>1</sup> Although the claimant's employment ended on August, 2018, the employer was asked to report wages paid only in May and June, 2018, because the base period of the claimant's unemployment claim ended on June 30, 2018. According to the DUA's electronic record-keeping system, the maximum potential charge to the employer for the claimant's \$200 base period earnings is \$71.99.

The review examiner's decision is affirmed. The services which claimant performed for the employer while she was in Massachusetts during her base period constitute employment.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - April 24, 2019**



Paul T. Fitzgerald, Esq.  
Chairman



Michael J. Albano  
Member

Member Charlene A. Stawicki, Esq. did not participate in this decision.

**ANY FURTHER APPEAL WOULD BE TO A MASSACHUSETTS STATE DISTRICT  
COURT OR TO THE BOSTON MUNICIPAL 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.

AB/rh