

**Board of Review  
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**Issue ID: 0008 9742 34**

## **BOARD OF REVIEW DECISION**

### **Introduction and Procedural History of this Appeal**

The claimant appeals a decision by Sandor Zapolin, 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 reverse.

The claimant resigned from her position with the employer on March 20, 2013. She filed a claim for unemployment benefits with the DUA, which was denied in a determination issued on August 8, 2013. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits, attended by both parties, the review examiner affirmed the agency's initial determination and denied benefits in a decision rendered on November 18, 2013. 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 or 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 accepted the case for review. 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 claimant's appeal.

The issue before the Board is whether the review examiner's conclusion, that the claimant quit her employment without good cause or urgent, compelling, or necessitous reasons before she was approved for a job training program, under G.L. c. 151A, § 30, is supported by substantial and credible evidence and is free from error of law.

### **Findings of Fact**

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

1. The Claimant was employed as a part-time Front Desk Clerk for the Employer, a hotel, from February 10, 2013 until March 20, 2013.
2. The Claimant was approved under Section 30 of the Law on April 25, 2013, while receiving unemployment insurance benefits. The Claimant's benefit year ended on November 9, 2013.

3. The Claimant was to begin an internship whose hours conflicted with her work schedule.
4. The Claimant quit on March 20, 2013 due to her desire to take part in a career-related internship.

### Ruling of the Board

In accordance with our statutory obligation, we review the decision made by the review examiner to determine: (1) whether these findings are supported by substantial and credible evidence; and (2) whether the review examiner's ultimate 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 left her employment under disqualifying circumstances.

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 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 . . . No disqualification shall be imposed if such individual establishes . . . that his reasons for leaving were for such an urgent, compelling and necessitous nature as to make his separation involuntary. . . .

An individual in partial unemployment who leaves work from other than the most recent base period employer while receiving benefits under this chapter shall not be disqualified pursuant to the provisions of this subsection from receiving benefits, if such individual establishes to the satisfaction of the commissioner that the reason for leaving was to enter training for which the individual has received the commissioner's approval under section thirty.

The review examiner concluded that under G.L. c. 151A, § 25(e), the claimant's situation does not fall within the provision that prohibits disqualification for leaving part-time employment to accept a G.L. c. 151A, § 30-approved program; because, at the time that the claimant separated from her employment, her training program had not yet been "approved" by the DUA. We disagree with the review examiner's application of this provision to the claimant's circumstances.

We note that the program to which the claimant applied, an education and training program through Partners Health Care, is an approved Section 30 program listed on the Massachusetts state government website.<sup>1</sup> Thus, as long as the claimant met the eligibility requirements, she

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<sup>1</sup> See Massachusetts JobQuest approved training database, available online at: <http://web.detma.org/JobQuest/TrainingDetails.aspx?ti=1067203>

would have been accepted into the program under G.L. c. 151A, § 30. Furthermore, a review of the claimant's benefits and claims record indicates that, while the claimant was indeed determined to be eligible for Section 30 benefits on April 25, 2013 (as indicated in the review examiner's findings of fact), the determination's effective date was March 17, 2013, which was prior to the claimant's separation from employment. Given these facts, we conclude that the claimant left her employment to enter a training program that had been approved by the DUA under G.L. c. 151A, § 30, within the meaning of G.L. c. 151A, § 25(e), and therefore should not be disqualified.

The review examiner's decision is reversed. The claimant is entitled to receive benefits for the week ending March 30, 2013, and for subsequent weeks if otherwise eligible.



Paul T. Fitzgerald, Esq.  
Chairman

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - June 12, 2014**



Judith M. Neumann, Esq.  
Member

**ANY FURTHER APPEAL WOULD BE TO A MASSACHUSETTS 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.

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.

AM/rh