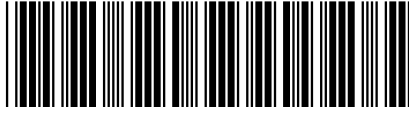




THE COMMONWEALTH OF MASSACHUSETTS
 EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT
 DEPARTMENT OF UNEMPLOYMENT ASSISTANCE



137571513

[REDACTED]
 Roslindale, MA 02131-4822

Hearings Department
 Greater Boston Regional Hearings
 Office
 19 Staniford Street
 Boston, MA 02114
 Ph: (617) 626-5200
 Fax: (617) 727-9329

CLAIMANT ID: [REDACTED]

CLAIM ID: [REDACTED]
 June 08, 2018

HEARINGS APPEAL RESULTS

CLAIMANT

[REDACTED]
 [REDACTED]
 Roslindale, MA 02131-4822

Claimant ID #: [REDACTED]
 Issue ID#: [REDACTED]

Hearing Date:

Hearing Type:

Original Determination: Eligible

Hearing Decision: Affirm

Attendance:

EMPLOYER [APPELLANT]:

WHITTIER STREET HEALTH COMMITTEE INC
 1290 TREMONT ST
 ROXBURY, MA 02120
 EAN #: 82467380-0

Attended	Name	Role	Attendance Type
Yes	WHITTIER STREET HEALTH COMMITTEE INC	Employer Appellant	In-person
Yes	[REDACTED]	Claimant Non Appellant	In-person

Hearings Department
Greater Boston Regional Office
19 Staniford St., 1st Floor
Boston, MA 02114
Phone: 617-626-5200
Fax: 617-727-9329
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DECISION

ISSUE ID: [REDACTED]

I. STATUTORY PROVISION(S) AND ISSUE(S) OF LAW:

MGL Chapter 151A, §§25(e)(1) & (e)(2) - Whether there is substantial and credible evidence to show that the claimant left work voluntarily with good cause attributable to the employer or its agent, or involuntarily for urgent, compelling and necessitous reasons, or by discharge for deliberate misconduct in willful disregard of the employing unit's interest, or for a knowing violation of a reasonable and uniformly enforced policy or rule, unless the violation was the result of the employee's incompetence.

II. FINDINGS OF FACT:

1. Beginning April 27, 2016, the claimant worked full time as a physician for the employer, a health care facility. The employer's medical director ("supervisor") supervised the claimant. The claimant worked until January 18, 2018, when he was discharged.
2. The employer expected the claimant not to defame the employer on the internet and not to tell other employees to quit working for the employer. The purpose of this expectation was to protect the employer's reputation. The claimant was aware of this expectation as a matter of common sense.
3. On December 18, 2017, the claimant submitted a letter of resignation giving his last day of work as March 2, 2018. The claimant intended and expected to work until March 2, 2018. The claimant resigned from his position because he believed his case load was too high and excessive turnover affected the quality of patient care; and because he felt there had been errors on a few of his paychecks.
4. On January 18, 2018, the claimant was discharged for allegedly defaming the employer on the internet and telling other employees not to work for this employer.
5. The claimant was not defaming the employer on the internet and did not tell other employees to quit working for the employer.
6. On January 26, 2018, the claimant filed a claim for unemployment benefits effective January 21, 2018.

III. CONCLUSIONS & REASONING:

The claimant attended both hearings. The employer's Director of HR ("director") and attorney attended both hearings.

Although the claimant resigned in December 2017, the claimant filed his claim for unemployment benefits on January 26, prior to his intended last day. Therefore, the claimant would not have quit this job yet. Thus, MGL Chapter 151A, §25(e)(1), is not applicable. Under MGL Chapter 151A, §25(e)(2), the employer must establish by substantial and credible evidence the claimant was discharged for either a knowing violation of a reasonable and uniformly enforced rule or deliberate misconduct in willful disregard of the employer's interest.

In this case, the employer did not meet its burden.

In discharge cases, the threshold issue that the employer must overcome is to establish by substantial and credible evidence that the claimant did that which the employer has alleged. If that burden is met, then the employer must show that the established action, or inaction, of the claimant constitutes either a "knowing violation" or "deliberate misconduct" as those terms are applied under the Law.

The claimant was discharged for allegedly defaming the employer on the internet and telling other employees to quit working for this employer. The claimant denied the allegations. The director did not have firsthand knowledge of these alleged conversations. Rather, the witness repeated what others had reported to him at one point. The employer witness testified he had been unable to obtain confirmation of the allegations. The allegations reported by the employer witness had no indication of reliability and were, therefore, not credible. Thus, it is concluded the claimant did not defame the employer on the internet or tell other employees not to continue working for the employer.

Although it is unknown if the employer maintains a policy regarding defamation, the employer did not establish that the claimant engaged in the alleged behavior therefore the policy would not apply.

Accordingly, the claimant is not subject to disqualification under Section 25(e)(2) of the Law and benefits are allowed.

IV. DECISION:

The decision is affirmed.

The claimant is entitled to benefits for the period beginning January 21, 2018, and subsequent weeks if otherwise eligible.

HEARINGS DEPARTMENT

BY: Rose McDuffy

REVIEW EXAMINER

COPIES TO:

Claimant
Employer
Employer's Attorney
Local Office
File

Appendix A

Appeal Filed Date:6/7/2018

Issue ID: [REDACTED]

Issue Type
Discharged

Issue Start Date
1/18/2018

Issue End Date
3/3/2018

Decision
Affirm

Additional Notes:

This notice contains important information regarding the appeal identified on the first page of this notice. It is important to have it translated immediately. You may need to respond by a certain date to protect your rights.

Esta notificación contiene información importante sobre la apelación identificada en la primera página de esta notificación. Es importante que este formulario se traduzca de inmediato. Es posible que usted tenga que responder para una determinada fecha para proteger sus derechos.

Este aviso contém informações importantes relacionadas à apelação identificada na primeira página do aviso. É importante que este documento seja traduzido imediatamente. Pode ser necessário que você responda dentro de um prazo específico para proteger seus direitos.

В настоящем уведомлении содержатся важные сведения об апелляции, указанной на первой странице настоящего уведомления. Необходимо незамедлительно обеспечить его перевод. Чтобы защитить свои права, вам, возможно, необходимо будет ответить до определенной даты.

Avis sa gen enfòmasyon enpòtan konsènan apèl ki idantifye sou premye paj avi sa. Li trè enpòtan pou fè yon moun tradwi sa pou ou touswit. Ou ka bezwen repon avan yon dat spesifik pou pwoteje dwa w yo.

Il presente avviso contiene importanti informazioni in merito al ricorso riportato nella prima pagina del presente documento. Tradurre quanto prima il presente modulo. È possibile che si richieda risposta entro una certa data al fine di proteggere i diritti del soggetto.

Cet avis contient d'importants renseignements sur l'appel identifié en première page de cet avis. Il est important de le faire traduire immédiatement. Il se peut que, pour protéger vos droits, vous deviez répondre avant une certaine date.

កំណត់ហេតុនេះមានព័ត៌មានសំខាន់ៗ ពាក់ព័ន្ធនឹងបណ្តឹងតវ៉ា

នៅក្នុងទំព័រដំបូង នៃកំណត់ហេតុនេះ។

វាសំខាន់ណាស់ដែលមានការបកប្រែយ៉ាងឆាប់រហ័ស។

អ្នកប្រហែលជាត្រូវការតបត

តាមកំណត់កាលបរិច្ឆេទដើម្បីការពារសិទ្ធិរបស់អ្នក។

Thông báo này có các thông tin quan trọng về việc kháng cáo đã được xác định trên trang đầu tiên của thông báo này. Việc dịch ngay thông báo này là rất quan trọng. Quý vị có thể cần phải trả lời chậm nhất vào ngày cụ thể để bảo vệ quyền của mình.

ໜັງສືແຈ້ງການນີ້ລວມມີຂໍ້ມູນທີ່ສໍາຄັນກ່ຽວກັບການຂໍອຸທອນທີ່ໄດ້ກຳນົດຢູ່ໃນໜ້າທຳອິດຂອງໜັງສືແຈ້ງການນີ້. ການເອົາໜັງສືນັ້ນແປໃນທັນທີແມ່ນສໍາຄັນຫລາຍ. ທ່ານອາດຈະຈຳເປັນຕ້ອງຕອບມັນໃຫ້ທັນໃນວັນທີ່ສະເພາະໃດໜຶ່ງ ເພື່ອປົກປ້ອງສິດທິຂອງທ່ານ.

這份通知包含了有關本通知第一頁中所指上訴的重要資訊。因此立即請人翻譯相關內容是非常重要的。您或許必須在某個時間之前提出答辯狀以保護您的權利。

이 통지서에는 본 통지서 첫 페이지에 나오는 항소에 관한 중요한 정보가 들어 있습니다. 이것이 즉시 번역되도록 하는 것은 중요합니다. 귀하는 귀하의 권리를 보호하기 위하여 특정 날짜까지 응답해야 할 수도 있습니다.

يتضمن هذا الإشعار معلومات هامة حول الاستئناف المذكور في الصفحة الأولى من هذا الإشعار. من المهم القيام بترجمة هذا الإشعار فوراً. قد يتعين عليك الرد في تاريخ معين لحماية حقوقك.

