



COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
BOARD OF REVIEW
Government Center
19 Staniford Street
Boston, MA 02114

Tel. 626-6400
Office Hours:
8:45 a.m. to 5:00 p.m.

DECISION OF BOARD OF REVIEW

In the matter of:

Appeal number: **BR-267814**

APPELLANT: (claimant)

Barbara Boutwell
53 Beech Street
Greenfield, MA 01301-2307

Office # 02

DECISION

A majority of the Board of Review conducted a telephone hearing in Boston on Thursday, December 2, 1999 to consider whether the appeal in the above captioned matter was timely filed. The claimant's attorney participated.

The claimant filed an appeal to the Board on November 19, 1999 from the Deputy Director's decision dated October 19, 1999, (Division of Employment and Training Hearing Docket # 267814). In accordance with Section 39 of Chapter 151A of the Massachusetts General Laws, unless action is taken under Section 40 of the Law, the decision of the Deputy Director shall be final on all questions of fact and law.

Massachusetts General Laws, Chapter 151A, Section 40, provides "a claimant or interested party may **within 30 days** [Emphasis Added] after mailing to him a notice of the decision, file an application for review of such decision by the board of review."

In order to be considered timely, applications for review must be either postmarked by U.S. Mail or received by the Board of Review within 30 days of the date that the decision was mailed. (801 CMR 1.01 (4) (b)).

The majority of the Board makes the following findings of fact:

The Deputy Director conducted a hearing on the claimant's eligibility for unemployment insurance on October 15, 1999.

The claimant participated in the hearing and was represented by legal counsel.

As a result of the hearing on October 19, 1999, the Division of Employment and Training (DET) mailed the claimant a copy of the decision disqualifying her from receipt of unemployment benefits.

The claimant's attorney received a copy of the decision on October 20, 1999.

The claimant's attorney is employed by Western Massachusetts Legal Services, Inc., 20 Hampton Avenue, Suite 100, Northampton, MA 01060-3890.

On the front page of the decision, in the lower right hand corner, a notice reads: "You May Appeal This Decision to The Board of Review. The LAST DATE to FILE an APPEAL is November 18, 1999."

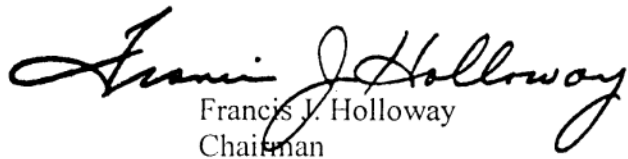
On November 16, 1999, the claimant's attorney completed a six-page appeal to the Board of Review (Exhibit #1) and dated the document November 16, 1999. On the same day, the attorney's secretary hand-carried the document to the U.S. Postal Service and mailed it by certified mail to the Board of Review.


The majority concludes:

DET sent the claimant a decision disqualifying her from receipt of unemployment insurance benefits to the claimant on October 19, 1999. The claimant's appeal was filed by certified mail on November 16, 1999, which was two days prior to the deadline for filing an appeal.

The majority of the Board concludes that the claimant's appeal from the Deputy Director's decision dated October 19, 1999, was filed timely. Therefore, jurisdiction is accepted and the Board will therefore review the decision on the merits.

MAIL DATE: December 7, 1999


Francis J. Holloway
Chairman


Kevin P. Foley
Member

APPELLANT: I.D. #012-49-9660

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