



When Contesting Unemployment Claims Makes Sense (And when it doesn't)

Contesting unemployment claims is an important thing to understand as a small business owner. In certain situations, former employees are absolutely entitled to claim unemployment. Other times, however, these claims are worth contesting. When should you contest an unemployment claim, then? What circumstances do you need to look at in order to make this decision?

We are going to break down these questions in order for you to have the information you need to make these decisions.

Should You Contest an Unemployment Claim?

Before you go through the process of contesting an unemployment claim, you need to decide if you *should* contest it. There are a couple situations we can immediately eliminate from contesting. If you laid the employee off, or they otherwise lost their job because of a reduction in your workforce, they are definitely eligible for unemployment benefits. Therefore, in this situation there is absolutely no reason for you to contest this claim. With those cut and dry situations out of the way, now let's move onto ones with more nuances.

Employee Was Fired

Employees terminated for misconduct are not typically eligible to receive unemployment benefits. However, just because you consider the offense to be misconduct does not necessarily mean that unemployment law sees it the same way. Misconduct can be defined as, "willfully doing something that substantially injures the company's interests."

See examples:

- Revealing trade secrets.
- Harassment of coworkers.
- Chronic tardiness.
- Numerous unexcused absences.
- Extreme insubordination.
- Intoxication on the job.
- Dishonesty.

On the other hand, there are reasons an employee might have been fired, but do not qualify as misconduct, meaning the employee *would* be eligible for unemployment benefits.

For these cases, see examples:

- Poor performance because of lack of skills.
- Good faith errors in judgment.



- Inefficient work habits.
- An unpleasant personality.
- Poor relations with coworkers.
- Off -work conduct that does not have an impact on the employer's interests.

Employee Quits

If the employee quit or otherwise resigned, then typically they are not eligible for unemployment benefits. The primary exception to this is if they left the job under circumstances of duress—where remaining at the job placed the employee in physical danger, or due to intolerable work conditions or environment.

“If an employee leaves a job because of intolerable working conditions (such as being sexually harassed) or because of being offered the opportunity to quit in lieu of being fired, most states would allow the worker to collect unemployment benefits. Similarly, leaving a job because it poses a serious threat to the worker’s health or safety is usually good cause.”

Prevention/Preparation

In order to both prevent these situations from arising in the first place, and prepare for any time they do happen, there are steps and procedures you should follow in your company. By doing these, you will find yourself contesting unemployment claims less frequently and be more likely to win any claim you do contest.

Establish Company Policies

Before you ever find yourself in a situation to need them, you need to set up company policies and specifically explain them in the form of an employee handbook. Go over the handbook with all new hires as part of the on boarding process and have the employee sign documentation that they have been informed of these policies and understand them.

This way, if an employee is terminated for misconduct, they cannot claim to have not been aware their behavior could be considered misconduct.

Use Specific and Detailed Warnings and Discipline

If an employee requires corrective feedback or discipline about their behavior in the workplace, make sure to use specific and detailed language to explain what behavior necessitated discipline, why that behavior necessitates discipline, and what the consequences for that discipline will be.

Documentation

If you find yourself contesting unemployment claims, the best friend you can have is thorough and proper documentation. By having a record showing the terminated employee knew about and understood company policies, as well as any warnings or discipline leading up to their termination, you will be able to provide the evidence necessary to prove the employee was aware that their behavior constituted misconduct within your company.

Contesting a Claim

If you find yourself in a situation to contest an unemployment claim, the most important thing for you to do is provide all the information and documentation immediately. By showing the steps you took to inform the



employee of company policies, as well as any warnings and/or discipline given to them, you demonstrate the reasoning behind your decision to terminate the employee.

Fortunately, if you have followed the steps laid out here, you will already have this information readily available upon needing to submit it. By quickly responding to this request, you will both be more likely to be successful in contesting the unemployment claim, and will avoid potential additional fines and charges to your unemployment insurance.