

Get legal help when contesting unemployment



Employers have the right to contest a former employee's eligibility for unemployment benefits. Talk it over with your attorney before deciding to do so.

In most states, workers are eligible to receive unemployment benefits if they become unemployed through no fault of their own. But former employees generally aren't eligible for unemployment benefits if they quit voluntarily or were fired for gross misconduct.

As the employer, you will receive notice from your state when a former employee is determined to be eligible for unemployment benefits. You then have the right to appeal the decision.

Carefully consider whether you want to contest an unemployment claim.

It's essential to seek an attorney's help if you suspect the employee might file a discrimination lawsuit against your company. What you say about your organization's actions can come back to haunt you, especially if the former employee's attorney is using the relatively low-stakes unemployment setting to fish for information for a later lawsuit against you. What you say about why an employee was fired may bind you in a later, high-stakes lawsuit.

For example, if you testify that you fired an employee because of her frequent absences, the records you produce about it can be used later to show you violated the FMLA when you counted a sick-child call-off as an unexcused absence.

That's why it's best to run your expected testimony and documentary evidence by an attorney before you represent your employer in a hearing. You don't want to say something now that will be used against you later, or be silent about something now that will prevent you from putting on evidence later.

Sometimes, it may be best to have an attorney handle the entire unemployment benefits case. Other times, if you and your attorney think there's a good chance that the former employee will file a discrimination lawsuit, it may be better to forgo an appeal to avoid showing your cards too early. Not contesting an unemployment claim won't prevent you later from showing you fired the employee for a legitimate reason.