

UNEMPLOYMENT CHECKS

Can you Get Them? What can you do if they turn you down?



OUR ATTORNEYS HELP SOLVE CIVIL LEGAL PROBLEMS AT NO COST FOR STRUGGLING INDIVIDUALS AND FAMILIES.

BECAUSE NO ONE SHOULD HAVE TO FACE A LEGAL PROBLEM ALONE.



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LOST YOUR JOB?

Contact the unemployment office right away to apply for unemployment compensation benefits. Fill out the papers to see if you can get benefits. You should get unemployment IF:

- You have worked at the job steadily for 4 to 6 months AND
- You were laid off because of no work or the company closed down OR
- You couldn't get a job back after being off for health problems or child birth. (You have to report back to work as soon as your doctor says you're ready). OR
- You quit for a good reason connected with the job. For example: being allergic to something at work that makes your asthma worse OR
- having an illness or disability caused by the job. OR
- You were fired for something that was not your fault.

Were you fired because you could not do a job? Were you fired because you made a bad mistake at work? You may still get unemployment.

You cannot get an unemployment check IF ANY OF THE FOLLOWING IS TRUE:

1. You quit your job without a good reason connected with the job. This is called a "voluntary quit". OR
2. You can't work because of illness or disability NOT caused by the job. OR
3. You were fired because you broke the company's alcohol and drug rules and failed a drug or alcohol test. OR
4. You were fired for "misconduct".
 - MISCONDUCT means you: didn't follow reasonable orders; did something to hurt your employer; took leave but didn't come back on time; were fired for being absent without letting your boss know wouldn't do your job the way you were supposed to. OR
5. You are unemployed because you are out on strike. (Strikes have special rules, so check with the unemployment office.) OR

6. You were offered a “suitable” job and turned it down. Suitable means:

- the pay is almost the same as your old job;
- the hours are almost the same as your old job;
- you don’t have to drive a long way to get there;
- you don’t have to join a union or quit one; and
- you are not replacing someone who is out on strike.

What if you start getting un-employment and then you turn down a suitable job? You will lose your unemployment.

IF THEY TURN YOU DOWN, YOU CAN APPEAL

Did you apply for unemployment and get turned down? You can appeal. When you appeal, a different person looks at your case. You must appeal within 15 days. The 15 days start with the date on the letter that turned you down.

After you file an appeal, you will get a paper called an Acknowledgement of Appeal. Fill out the paper and mail it back. If you have new evidence, you will have to say what it is.

This time, the Board of Review looks at your case. If you have new witnesses or new evidence, the Board may give you another hearing. Or they may decide your case after reading the papers from the first hearing.

Let the Board of Review know if you MOVE OR CHANGE PHONE NUMBER. If you don't you won't know what happens with your case.

If you win the appeal, you get your unemployment check. You get paid starting from the day you applied for unemployment.

IT'S EASY TO START AN APPEAL

Just fill out an appeal paper at your local unemployment office. Keep a copy of the appeal paper after you fill it out. You can appeal without a lawyer. But having a lawyer at the first hearing can be very helpful.

The lawyer can help you get the evidence you need. In most cases, you can't give any new evidence after the first hearing. Need a lawyer? Call your local Legal Aid office to see if they can help you.

APPEAL STEP 1: HEARING

When you appeal, the Hearing Officer or Appeals Tribunal holds a hearing on your case. You may get a choice of doing the hearing by phone or in person. It may be best to do the hearing in person. This is true even if you have to travel to get there.

You have the right to bring a lawyer or other person with you to this hearing. The hearing is NOT like going to court. You and your boss both tell your side to the Hearing Officer.

IMPORTANT! Let the Hearing Officer know if you move or change phone numbers. If you don't you won't know what happens with your case.

If you have a lawyer, they will help you get ready for the hearing. If you don't have a lawyer, here's how to get ready for the hearing.

(A) FIND OUT WHAT YOUR BOSS SAID ABOUT WHY YOU LOST YOUR JOB.

To win at the hearing, you must prove that what your boss said isn't true. To find out what the boss said, ask to see your file at the unemployment office. You have a right to see it.

(B) DECIDE HOW TO PROVE THAT WHAT YOUR BOSS SAID IS NOT TRUE.

You will only have a few minutes to show why you lost your job. For example, you may need to prove that you did not quit on your own, or prove that you were not fired for misconduct.

Do you think your boss mistreats people? Don't talk about it unless you can prove this was why you lost your job. If not, don't talk about it. Also, don't talk about how hard it has been to lose your job. It will not help.

(C) YOU HAVE A RIGHT TO BRING YOUR OWN WITNESSES TO THE HEARING.

Most of the time, you need witnesses at the hearing. You cannot just say what someone else told you. This is called hearsay and is allowed, but the judge cannot base his or her decision on hearsay. Before you take a witness with you, ask them what they will say.

Be sure that what they say will help your case. Don't take someone you just think will back you up. You have the right to have the unemployment office subpoena witnesses for you. A subpoena is a legal paper that says they must come to the hearing. Need a witness subpoenaed? Ask the Hearing Officer in writing at least 3 days before the hearing. Keep a copy of your letter asking for the subpoena.

At the hearing, it is important for you to be polite. It helps people believe what you say. Don't interrupt your boss or other witnesses just because you disagree. You will have the chance to tell your side when you testify.

But, there is one time when you should interrupt. What if your boss tries to tell things he or she did not see or hear in person? During the hearing interrupt by saying, "I object". If you object to hearsay, it helps to make sure the judge will not base the decision on hearsay.

APPEAL STEP 2: BOARD OF REVIEW

If you lost at the hearing, you can appeal again. If you win, your boss can also appeal. The Board of Review will hear the appeal. The appeal must be made within 15 days. The 15 days start with the date on the paper that says who lost at the hearing.

Are you going to appeal again? You must do this in writing. You can fill out the paper at the unemployment office. Keep a copy of the papers you fill out.

APPEAL STEP 3: COURT

If you lose at step 2, you may file a lawsuit in Chancery Court. You must file within 40 days. The 40 days start with the date on the paper that says you lost at Step 2.

Did you already have a lawyer helping you with this case? Then they may go with you to Chancery Court. What if you didn't have a lawyer before? Most lawyers won't take the case this late. That is because they can't change any mistakes you made earlier in the appeal.

WATCH FOR THE DEADLINES!

Don't let your 15 or 40 day deadlines go by! Once they have passed, you may not be able to make your appeal. This is true no matter how good your case is.

If you get unemployment, it can be cut off IF:

1. You don't follow the rules the unemployment office gives you about looking for a job.
2. You don't go to a job interview the unemployment office sets up for you.
3. You turn down a job offer without a good reason.
4. You win but your boss files an appeal and wins the appeal.

Before they cut off your check, they must send you a letter. If you don't go, they will cut off your check. If you do go, they will tell you what the problem is. Then you can tell your side of the story.

What if they do cut off your unemployment? Then you can go through the same 3 appeal steps listed in this booklet.

LAET'S OFFICES ARE OPEN MONDAY THROUGH FRIDAY FROM 8:30 AM TO 5:00 PM

GENERAL OFFICES

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KNOXVILLE

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(865) 981-1818

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BRANCH HOUSE - THE FAMILY JUSTICE CENTER OF SULLIVAN COUNTY

(423) 574-7233

JOHNSON CITY / WASHINGTON COUNTY FAMILY JUSTICE CENTER

(423) 722-3720

CHATTANOOGA FAMILY JUSTICE CENTER

(423) 643-7604

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(865) 215-6830

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This pamphlet is intended for general information only. The circumstances of every case are different and need to be dealt with on a case-by-case basis. This is not a substitute for the advice of a lawyer. Also, the law may change and may be different from county to county.

