

Employment Law Newsletter

Legal news promoting employee rights

ELIGIBILITY FOR UNEMPLOYMENT INSURANCE

By Morris Nazarian

Unemployment Insurance (UI) is a nationwide program created to provide partial wage replacement to unemployed workers while they conduct an active search for new work. Under California law, how a job ended is crucial in determining whether the employee is eligible for unemployment insurance. An employee can be eligible for unemployment insurance under the following circumstances:

- (1) The employee voluntarily left his or her most recent employment (i.e. Quit or Resigned) with “good cause”;
- (2) The employee was discharged (i.e. Fired or Terminated) from his or her most recent employment unless the employer shows that the employee was fired for “misconduct connected with the work.”; or,
- (3) The employee was laid-off because the employee’s work has been eliminated and no further work is offered to the employee.
- (4)

Scenario: The Employee Quits

An employee will only be eligible for unemployment insurance if the Employment Development Department (EDD) concludes that the employee quit his or her job for “good cause”. Good cause is defined as: “a real, substantial, and compelling reason of such nature as would cause a reasonable person genuinely desirous of retaining employment to take similar action.” (California Unemployment Insurance Appeals Board)

Reasons which usually are considered good cause for quitting include:

- A reasonable fear of health or safety;

Law Offices of Morris Nazarian
Attorneys and Counselors at Law

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- A compelling family necessity; or,
- An abusive and oppressive work environment.

Reasons which usually are not considered good cause for quitting include:

- Fear of discharge or lay-off;
- A reduction or increase in hours;
- Job dissatisfaction;
- A reduction in pay; or,
- Conflict with supervisors.

DID YOU KNOW...

Even if you quit with good cause, you might not be entitled to receive unemployment insurance benefits if you did not complain to your employer prior to quitting the job

Scenario: The Employee Was Discharged

An employee who is discharged will be eligible for unemployment insurance unless the employer can show that the discharge was due to the employees “misconduct connected with the work”.

In order to prove “misconduct”, the employer must show that all of the following elements was present:

- The employee broke a work-related rule or failed to perform a job duty;
- The rule or duty was important;
- The employee knowingly broke the rule or intentionally failed to perform the duty; and,
- The employer’s business could be harmed by this kind of conduct.

DID YOU KNOW...

Your eligibility for unemployment benefits will be decided on the “**triggering incident**” for your termination, or the last incident resulting in the termination