



Preparing for an Unemployment Hearing



Unemployment hearings can be stressful situations for all parties involved, especially if you're the employer finding yourself once again in the courtroom with a disgruntled former employee. It may seem like unemployment law is written to benefit the former employee, and that can be true in some cases. Often small business employers are woefully underprepared when they attempt to defend themselves in an unemployment hearing.

Learning how to better prepare for unemployment hearings isn't an exact science, but with a little practice, you can get better at building a strong case to defend your business. Here are some best practices for better preparing for unemployment hearings, so when you find yourself in the courtroom, you can put your strongest case forward.

What are unemployment hearings?

If you're reading this, you're probably already familiar with the unemployment hearing process, but if you're new to running your business and don't know much about the legal procedure, then this section is for you.

Both employers and former employees have the right to appeal any decision that affects unemployment benefits. An unemployment hearing occurs when there is a contention over the former employee's unemployment benefits.

Unemployment hearings are different from a court of law in that they aren't as formal as a traditional courtroom. The purpose of the hearing is to allow the parties to present testimony and evidence that will enable the hearing officer to make an impartial decision.

The burden of proof will always fall on the party that initiated the separation, so for example, if the issue involves an employee who voluntarily quit, then it is the responsibility of the former employee to prove the quit was for a good cause attributable to the employer. If the issue was for discharge, the burden of proof is on you to show that you justly terminated the employee.

How you, as the employer, can better prepare for an unemployment hearing

There are a number of steps that you can take to better prepare for an unemployment hearing:

Reading the Hearing Notice Carefully: Every state handles the unemployment process differently, so by reading the hearing notice carefully you can better understand how the process is going to work. The notice should include the date and time of the hearing, whether the hearing will be in person or over the phone, and how you can submit documentation and witness contact information for the hearing.

Taking the Process Seriously: While unemployment hearings aren't as formal as a regular court of laws, you should still take the whole process seriously. Even before a claim is filed, you should have a system in place that helps you decide what documentation to retrieve and review. Winning an unemployment hearing depends on being prepared, by taking the entire process seriously you can gather the relevant information to build a strong case.

Know What Witnesses to Call: It is critical that you call the right witnesses to defend your case. You want people who have first-hand accounts of the situation that lead to the claimant's separation. Second-hand testimony, known as hearsay, is not usually considered credible and can end up hurting your chances of winning. By calling witnesses that directly interacted with the former employee you can build a much stronger case.

Document Everything: Even before a claim is brought to your attention you should be documenting every step of the employment relationship with an employee. In case you terminate an employee for cause, you need to create a paper trail showing what the employee did wrong, whether you gave them a chance to improve, and why you choose to terminate them. This could be verbal warnings, write-ups, probations, etc. Document everything.

Be Courteous: Legal proceedings can be difficult, but it's always good to remember to keep a level head and recount your side of the story. Maintain your composure and present your case calmly to the claims officer to put you in a strong position to win.

Unemployment hearings can be stressful, but by being prepared you can mitigate much of the stress and greatly increase your chances of winning. If you have the right witnesses, documentation, and take the whole process seriously you'll find that the law can be on your side more often than not.

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