

2010 Best Practices Tip

Temporary Shutdowns for the Holidays

Temporary shutdowns for the holidays may raise questions regarding the award of unemployment benefits. For example, a client asks "We are closing our manufacturing plant for two weeks. Some individuals are using vacation and some are not. Can employees apply for unemployment benefits if they do not want to use vacation time? Is there a waiting period?"

Most states typically have a one-week waiting period for Unemployment during which no work can be performed or no vacation pay used. If vacation pay is used, unemployment benefits are not allowed during that period as income is still coming in. Vacation pay has to be counted on an unemployment filing. If you are planning a holiday shutdown we encourage you to contact your Unemployment Consultant (Claims Contact) in advance to verify how your particular state will handle the vacation pay eligibility issue.

Voluntary Quits and Awarding of Benefits

Some may believe that all instances in which an employee quits disqualify the claimant from unemployment benefits. While most quits, especially for non-compelling reasons, are disqualifying there are significant exceptions. The former employee has the "burden of proof" and, in order to obtain benefits, must prove that he or she voluntarily quit with "good cause" attributable to the employment/employer such as a substantial change in pay, working conditions, etc. Some states have broader "good cause" definitions as well--allowing benefits for quits for certain compelling personal reasons which leave the claimant with no reasonable alternative.

Good cause is generally established when work-related conditions have substantially deteriorated or a situation exists that would force a reasonable person who is otherwise interested in remaining employed to nonetheless leave the job. Careful reporting and documentation of voluntary quits is vital to effective control of unwarranted claims. The following details what typically may and may not constitute good cause, but employers must be aware that this is an area in which the states vary greatly. If you have questions about voluntary quits or other unemployment matters, contact your TALX Client Relationship Manager.



Quits Which May Not Constitute Good Cause

- Attend School
- Get Married
- Look for other work, e.g., career change
- Stay at home with children
- Job abandonment--no call no show for three or more days

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Quits That May Constitute Good Cause for Leaving*

Good cause for quitting may exist if an employer substantially breaches a contract or agreement of employment or terms of hire such as the reasons listed below. Usually the change must be deemed detrimental to the claimant's interests. Appropriate disciplinary notices or suspensions do not normally provide good cause for quitting.

- Substantial or adverse changes in terms of hire, e.g.,
 - Reduction in hours or pay
 - Changes in duties causing a loss of skills. Demotion or loss of responsibility
 - Changes in worksite, assuming employee hardship, unless it was understood at the time of hire that the employee would be required to work at different job sites
- Violations of wage and hour laws such as denial of a lunch break without a written waiver from Department of Labor
- Evidence of harassment or discrimination
- Working conditions detrimental to health or safety

**Good cause for quitting in some of the above cases may not exist if an employee accepts the changes for a significant period of time.*

Quits which May Constitute Good Cause – Personal Reasons

- Quit for medical reasons, for example doctor's advice to move to another climate
- Care for dependent parent or child
- Quit to follow a spouse who transferred elsewhere or is in the military

Protecting the Employer in Voluntary Quit Cases

As in discharge issues, the key protection for employers in a voluntary quit situation is documentation. Employers should take care to obtain, if possible, a letter of resignation and/or conduct an exit interview documenting reasons for a quit. Employers should attempt to find out exactly why an employee is quitting. Documentation should be signed and dated and note the employee's last day of intended work. If an employee is leaving because of an alleged problem on the job, document the background details and attempts, if any, to find a solution, e.g. the offer of a transfer or leave of absence. An employer should be prepared to present facts to show the claimant did not have good cause to quit or evidence that the reason the claimant gave for quitting is not factually correct. The employer may need to show that they have attempted to resolve the situation with the employee, i.e., alternatives were available to the employee prior to resignation.

Note: A quit in lieu of discharge is not a voluntary quit; it is a discharge since continuing work was not available.