



# CENTRAL VIRGINIA LEGAL AID SOCIETY

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## Unemployment Compensation

Unemployment compensation is a state program to help workers who are unemployed through no fault of their own. It is run by the Virginia Employment Commission (VEC).

### **How much work must I have done to get unemployment compensation?**

You must have earned at least \$3,000 in wages in the two highest “calendar quarters” in a recent one-year period called the “base period.” A calendar quarter is any of these three-month periods: January through March, April through June, July through September, and October through December. Usually, your base period is the first four of the last five completed calendar quarters. Using this rule, this is how you figure your base period.

#### If you apply in:

#### Your base period is:

January - March, this year.

April - June, this year.

July - Sept, this year.

Oct - Dec, this year.

January - Sept, last year, and Oct - Dec previous year.

January - Dec, last year.

January - March, this year, and April - Dec, last year.

January - June this year, and July - Dec, last year.

### **What if I have worked only recently?**

If you don't have enough earnings in the first four of the last five completed calendar quarters, your base period is the last four completed calendar quarters. Using this rule, this is how you figure your base period.

#### If you apply in:

#### Your base period is:

January - March, this year.

April - June, this year.

July - Sept, this year.

Oct - Dec, this year.

January - Dec, last year.

January - March, this year, and April - Dec, last year.

January - June this year, and July - Dec, last year

January - Sept, this year and Oct - Dec, last year.

### **What are the other rules to get unemployment compensation?**

- You must be unemployed. You are unemployed if you're not working and not earning any money. You are partially unemployed if you're working less than full time and earning less money than your weekly unemployment compensation would be.

- You must file your claim for unemployment compensation and report to the VEC field office as directed.
- You must report all work and money as you earn it.
- You must be able to work and available for work.
- You must register for work at the VEC field office.
- You must make an active search for work each week.
- You must report all job offers and job referrals.
- You must not be on strike, on vacation, or retired.
- You must wait for one week after you apply.

### **What is meant by an active search for work?**

Unless you usually get work through a labor union or have been approved for a resume job search, you must apply in person for work. For each employer you contact, you must give the VEC the following things.

- The date you contacted the employer.
- The name, address, and phone of the employer.
- The name and title of the person you contacted.
- The type of work or position for which you applied.
- The results of your contact.

### **Are there reasons I may be denied unemployment compensation?**

You can't get unemployment compensation if you quit your job without good cause, if you're discharged for work-related misconduct, or if you don't apply for or accept suitable work. Any of these reasons will keep you from getting unemployment compensation.

### **What is a voluntary quit without good cause?**

If you left your last job without being fired or laid off, and you did this without a good reason, you can't get unemployment compensation. You must prove you had a good reason for quitting. A good reason might be that the job was a risk to your health or safety, or you were physically or mentally unable to do the job. You also must prove you made all reasonable efforts to solve the problem and keep your job before you quit.

If you're asked to resign from your job instead of being fired, that is not a voluntary quit. The VEC should treat that as a discharge, and decide if you committed work-related misconduct.

### **What is a discharge for work-related misconduct?**

If you are fired from your last job because of your misconduct in connection with your work, you can't get unemployment compensation. Your former employer must prove you were discharged for misconduct. Misconduct means you intentionally violated an employer's rule designed to protect your employer's interests, or you willfully disregarded the interests and duties you owed your employer. To prove these intentional acts, your employer usually must

show you knew the employer's policies, you had been warned, you knew you risked losing your job, and you kept violating the policies.

### **What is a failure to apply for or accept suitable work?**

If the VEC orders you to apply for or accept work, and you fail to do this without a good reason, you can't get unemployment compensation. You must prove you had a good reason for not applying for or accepting work. The VEC looks at many things in deciding if your work is suitable. These include your prior work history, your physical and mental fitness for the work, any risk to your health, safety or morals, and the distance from your home.

### **What happens if I'm disqualified from unemployment compensation?**

If you're disqualified, you can't get unemployment compensation until you get another job, work at it for at least 30 days for one employer & lose the job through no fault of your own.

### **For how long can I get unemployment compensation?**

Usually, you can get unemployment compensation for 26 weeks. You may get it for fewer weeks depending on your prior earnings. You also may get it for more weeks if you are eligible for extensions. Your benefits can be between \$54 and \$363 per week. The amount of your benefits also depends on your prior earnings.

### **What are the steps in an unemployment compensation case?**

There are four steps in an unemployment compensation case. These are the Deputy's Determination, a hearing before an Appeals Examiner, the commission review before a Special Examiner, and an appeal to state Circuit Court. The VEC must give you a written decision at each step. You can appeal a denial at each step. You must do this within 30 days of the date of the decision. You may be represented by anyone you choose at any step, except you must have a lawyer to go to Court.

### **What happens at the Deputy's Determination?**

Once you file a claim for benefits, your former employer files a report of separation. This tells why you no longer work for them. After that, a Deputy conducts a telephonic fact finding interview. This is with both you and your former employer. You can give your side of the story and respond to what your former employer said. Your former employer can give its side of the story and respond to what you said. The Deputy then issues a written decision within a few days.

### **What happens at the Appeals Examiner?**

The party who loses the Deputy's Determination has 30 days to file a written appeal. This appeal is a hearing before an Appeals Examiner. Unless you make a written request for an

in-person hearing, your hearing before the Appeals Examiner will be by telephone. In general, it is better to have an in-person hearing rather than a telephone hearing.

At the hearing, the Appeals Examiner will put into the record the documents that were before the Deputy. The Appeals Examiner questions the employer and its witnesses first. You or your attorney has a chance to question the employer and its witnesses. The Appeals Examiner then questions you and your witnesses. Your attorney also may ask questions. Your former employer has a chance to question you and your witnesses. Both parties get a chance to put other documents into the record. Both sides get to make a brief closing statement. The Appeals Examiner then issues a written decision in a week or two.

### **What happens at the Special Examiner?**

The party who loses the Appeals Examiner's Decision has 30 days to file a written appeal. This appeal is a review before a Special Examiner. There is no new hearing, evidence or testimony before the Special Examiner, unless there is a very good reason. Instead, the Special Examiner reviews the testimony and the documents put into the record by the Appeals Examiner.

If you want a copy of the transcript and the documents before the Appeals Examiner, and if you want to present oral or written argument before the Special Examiner, you must make a written request for this within 14 days of the Notice of Appeal that the VEC sends to the parties after the appeal is filed. If you do not ask for a chance to present argument, you will not be able to. After the argument and review of the record, the Special Examiner issues a written decision.

### **What happens at Circuit Court?**

The party who loses the Special Examiner's Decision has 30 days to file an appeal in Circuit Court. There is no new hearing, evidence or testimony in Circuit Court. Instead, the court reviews the record to see if the decision is supported by evidence and is legally correct.

### **Are there other types of unemployment compensation?**

The VEC also runs these other unemployment compensation programs.

- Disaster Unemployment Assistance (DUA). This provides benefits to workers unemployed due to a major disaster in their area.
- Extended Benefits (EB). This pays benefits after regular unemployment compensation has run out. This is in effect only during periods of high national or state unemployment levels.
- Unemployment Compensation for Federal Employees (UCFE). This provides benefits for workers who were employed as federal civilian employees during the base period.
- Unemployment Compensation for Ex-Service Members (UCX). This provides benefits for workers who were members of the U.S. Armed Forces during the base period.