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## **Key points to stress to Claimants for Unemployment Compensation**

1. We don't have to prove anything. The former employer has to prove, by the greater weight of the evidence that you deliberately, intentionally and willfully committed work-related misconduct. This means you did something wrong, knew it was wrong, and did it anyway. If the evidence is evenly balanced, it means the former employer didn't prove their case and we should win.

2. (Alternative version for a voluntary quit case.) At first, we don't have to prove anything. The former employer has to prove, by the greater weight of the evidence that you voluntarily quit your job. This means you left entirely of your own free will. If this is the case, the burden shifts to you, and you have to prove, by the greater weight of the evidence, that you had good cause to leave and left only after you made all reasonable efforts to keep your job.

3. The Appeals Examiner is most interested in what happened your last day, or several days or several weeks of employment. The farther back you go from your final day of employment, the less interested the Appeals Examiner will be. The Appeals Examiner is not there to hear about your entire work history. The Appeals Examiner only wants to know whether you lost your job through no fault, or minimal fault, of yours.

4. The Appeals Examiner has very little interest in the reason why you were fired, or whether you were fired for good cause. That's not the issue. Virginia is an employment at will state. This means an employer may hire, refuse to hire, promote, demote, fire, or lay off employees, for any reason at all – good reason, bad reason, or no reason – as long as it is not a prohibited reason. The issue is not whether you deserved to lose your job. The issue is whether you committed deliberate, intentional and willful work-related misconduct.

5. The Appeals Examiner has very little interest in what happened to other employees, or how they were treated, except possibly to show that a rule which was enforced against you was not enforced uniformly.

6. The Appeals Examiner has very little interest in what happened after you lost your job, except possibly to show that the former employer tried to influence the testimony of witnesses against you.

7. The Appeals Examiner may consider hearsay – which can be written statements or live testimony by witnesses without personal knowledge who simply are repeating what they heard other people say. But the Appeals Examiner is required to give greater weight to live testimony by witnesses with personal knowledge, because they can be questioned and cross examined

8. Your reputation and character are not an issue and are not affected by the unemployment compensation proceedings. Everything before the VEC is confidential and can't be used by anyone for any other purpose. It's like Las Vegas – what happens before the VEC, stays before the VEC.

9. What happened at the Deputy Determination does not matter. The hearing before the Appeals Examiner is *de novo*, that is, starting brand new. This is not completely the case because the Appeals Examiner will have the documents that were in front of the Deputy, including your claim for benefits, the employer's report of separation, and the Deputy's version of what each of you said at the fact-finding interview. But because these all are hearsay, the Appeals Examiner gives them much less weight than what happens at the hearing.

10. At the hearing, remember your ABC's - your **A**ttitude, **B**ehavior and **C**onduct. You want to come across as the calm, friendly and sensible person. Let the other side be angry, hostile and unreasonable.

11. There are three things you need to do. One, keep doing your job searches. Two, keep turning in your weekly claims. Even if we win the appeal, you won't get benefits for any week for which you don't turn in a claim. Three, if you are offered suitable work, take it. Suitable work means anything that – based on your education, experience, training, knowledge, skills and ability – you are able to do. Even if we win the appeal, you won't get benefits if you turn down suitable work.