**I LOST MY JOB—WHAT SHOULD I DO?**

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**WRONGFUL TERMINATION:**

Because Virginia has an “Employment-At-Will State,” most jobs in Virginia do not allow employees to dispute a discharge and request they be reinstated to their job, or receive monetary damages for wrongful termination. Therefore, at-will employees are subject to the needs of the company and could be let go, or suspended at any time with no advance notice. Federal and Virginia State Law recognizes a few exceptions to at-will employment, and violating one of these constitutes wrongful termination for which an employee may file a claim for Wrongful Termination with the EEOC or the Virginia Human Rights Commission. Examples of Wrongful Termination include:

1. **Breach of Contract**: An employer cannot breach the terms of a written employment contract or retaliate against an employee who has reported unsafe work conditions to the OSHA. However, many companies have employee manuals or policies that outline what activities are grounds for dismissal. While these may seem to imply that there is a contract, they do not typically constitute an exception to at-will employment, so acting contrary to these is not a breach of contract.
2. **Discrimination:**People who work for companies with fewer than 15 employees are not protected under the federal law that prohibits termination based on citizenship status, national origin, color, race, sex, genetic information, religion, disability, or pregnancy. However, Virginia’s anti-discrimination law has different terms. Companies that employ between six and 15 workers cannot terminate employees for any of the above protected traits except citizenship status, and Virginia does not allow discrimination based on marital status.
3. **Retaliation:** Retaliation is a punitive action against an employee who has performed a legally protected activity, and under most circumstances, it is considered a wrongful termination. For example, an employer cannot fire a worker who registers a safety violation complaint with OSHA or files for workers’ compensation benefits. Employees are also acting within their rights if they protest a violation of the state’s minimum wage or [child labor laws](https://www.mightyrecruiter.com/recruiter-guide/hiring-glossary-a-to-z/child-labor-law/), among others.
4. **Public Policy:** Sometimes employees are granted rights based on Virginia’s public policies. These refer to state laws that protect public interests, such as safety, health, property rights and personal freedoms. Examples of protected actions based on public policy include reporting for jury duty or refusing to engage in illegal activity.

In general, most employment termination matters in Virginia will not fall into any of the wrong termination categories. However, filing a claim for Virginia Unemployment Compensation Benefits can provide a worker with temporary financial assistance, and should be filed immediately after a worker is terminated by their employer.

**VIRGINIA UNEMPLOYMENT COMPENSATION**:

Virginia unemployment compensation benefits (“UIB" ) was designed to assist workers temporarily between jobs. Workers do not get benefits unless they have enough recent earnings and actively look for work. Benefits are limited to 26 weeks at no less than $60 a week and no more than $378 per week. As of September 5, 2021, only state unemployment compensation is available. The extended federal unemployment compensation programs available during the COVID pandemic have ended.

After a claimant applies for unemployment compensation, the Virginia Employment Commission (VEC) issues a Statement of Wages and Potential Benefit Entitlement. This is not a decision that a claimant is entitled, eligible, or qualified for unemployment compensation. This is only an initial finding of *possible weekly benefit amount and possible number of weeks***. To actually receive unemployment compensation, at least six things must happen:**

1. An initial application for benefits must be filed.
2. Each week after that, a weekly claim that shows at least two job searches and any weekly earnings (if any) must be filed with the VEC.
3. Any earnings shown on a weekly claim must be no greater than what your weekly benefits would be, plus an additional $50.00.
4. A claimant must have enough recent earnings in your base period – as shown on your Statement of Wages and Potential Benefit Entitlement. The VEC looks back at your work history and finds the last employer for whom you worked at least 30 days or 240 hours. They also look forward from that employer to see if you subsequently worked for an employer for less than 30 days. The VEC sends the 30-day employer and the less than 30-day employer (if any), a Report of Separation.
5. A claimant must be found *eligible* for UIB, that means is, able to work & available for work, and not medically unable to work.
6. . A claimant must be found *qualified for UIB* – that means that you lost work due to no fault, or misconduct of your own. You are not qualified if you quit your job without good cause, if you are discharged for work-related misconduct**,** or if you do not apply for or accept suitable work. Any of these reasons disqualifies you from unemployment compensation.

**FOUR STEPS OF AN UNEMPLOYMENT COMPENSATION CASE:**

(each of which can take a lengthy period of time to get to each level):

1.The Deputy’s Decision;

2. An Appeals Examiner Hearing;

3. A commission review before a Special Examiner; and,

4. An appeal to your local City or County 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.

The party who loses the Deputy’s Decision has 30 days to file a written appeal. If you file an appeal, a telephone hearing will be scheduled before an Appeals Examiner. The Appeals Examiner will put into the record the documents that were before the Deputy, ask questions of the employer and its witnesses first. You or your representative has a chance to question the employer and its witnesses. The Appeals Examiner then questions you and your witnesses. You or your representative 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 addition to being posted on the portal, all written decisions are mailed to the claimant’s last known address.

If you receive an unfavorable decision after your case is heard by the Appeals Examiner, you will receive a decision that informs you that you have 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.

**HOW DO I APPLY FOR UNEMPLOYMENT BENEFITS?**

To **apply for unemployment benefits** using the VEC Customer Contact Center, please call 1-866-832-2363 8:00am – 4:30pm. Monday – Friday, or you may conduct business by accessing the [Customer Service Portal](https://uidirect.vec.virginia.gov/CSS) at vec.virginia.gov.

**HOW CAN I GET INFORMATION ON THE STATUS OF MY UNEMPLOYMENT CLAIM?**

You can obtain this information through the VEC Voice Response System (1-800-897-5630). Listen to the menu, and select "Claims and Benefits" (option 1), and enter your Social Security number and PIN, or go in person to your local VEC Customer Contact Center.

**CAN CVLAS HELP ME WITH MY UNEMPLOYMENT CLAIM?**

After applying for UIB, if you receive an unfavorable Decision of the Deputy from the VEC, please contact CVLAS for assistance regarding an appeal and request for hearing before an Appeals Examiner. You may apply for CVLAS legal services online at [www.cvlas.org](http://www.cvlas.org), or by phoning 804-200-6046.