

UNEMPLOYMENT COMPENSATION

Successfully Managing Unemployment Claims

What Employers Need to Know

September 13, 2016



Purpose of the Unemployment Insurance (UI) Program

To provide benefits to the regularly employed members of the labor force who become unemployed due to no fault of their own (Lack of Work).

Virginia's Responsibility

Design & administer the UI program
within the framework of Federal law.

Unemployment Insurance Program is funded by the employer

- FUTA – Paid by the employer to the Federal government for administration of Federal & State program operating costs
- SUTA – Paid by the employer to the State UI Trust Fund to pay benefits

Earnings Requirement

Have earnings of \$3,000 during two quarters of the base period.

- Base Period:
 - First four of the last five completed calendar quarters
 - Alternate Base Period: Last four completed calendar quarters
- Minimum of \$60 for 12 weeks
- Maximum of \$378 for 26 weeks (\$18,900.01 earnings & over during two quarters of the base period)

Claims Process

- Initial claim filed by employee
- Wage and Separation Report sent to employer
- Separation reason is indicated by the claimant

continued..... **Claims Process**

Wage and Separation Report

- Provide the name and number of a person in your company with first hand knowledge to be contacted for additional information. The Deputy will contact that person.
- Answer the questions on the form with “who, what, when, where & how”
- Attach any relevant company policy, any acknowledgment of that policy, any warnings that were provided, any witness statements, etc.
- Mailed to the address on file
- **Return by the date that is indicated on the form**

Wage & Separation Report

This is a legal document.

- The claimant has a right to know the information you provide.
- Do not put anything on this report you would not say to the claimant or say in a court of law.

*Note: Effective July 7, 2013 the law was amended so that penalties may be applied to an employer if requests for information are not returned timely.

P O Box 1779
Richmond VA 23218

VIRGINIA EMPLOYMENT COMMISSION
EMPLOYER'S REPORT OF SEPARATION
AND WAGE INFORMATION

DATE MAILED: 03/21/14

ACCOUNT NUMBER :

EMPLOYER NAME AND ADDRESS :



SOCIAL SECURITY NUMBER :
CLAIMANT NAME :
EFFECTIVE DATE : 03/16/14
REASON FOR SEPARATION : DISCHARGE / SUSPENSION
DATE CLAIM TAKEN : 03/20/14
BENEFIT YEAR ENDING : 03/14/15

TO EMPLOYER: The individual has filed a claim for unemployment insurance and has named you as a former employer. The information requested below is required to determine the claimant's entitlement to benefits. IMPORTANT: Benefits may be awarded without your response unless this form is completed and received at the address on the reverse by 03/29/14

1. THE CLAIMANT STATES HE WORKED FROM 10/26/10 TO 03/18/20 IF INCORRECT, ENTER THE CORRECT DATES:
FROM 10/26/09 TO 3/17/14

2. DID THE CLAIMANT WORK DURING THE SEVEN (7) DAY PERIOD BEGINNING 03/16/14 YES NO
AND ENDING 03/22/14 ?

IF 'YES', ENTER GROSS WAGES EARNED DURING THIS TIME PERIOD \$ 133.62

3. DID THE CLAIMANT WORK FOR YOU FOR AT LEAST 30 WORKING DAYS? YES NO
IF 'NO', DID THE CLAIMANT WORK AT LEAST 240 HOURS? YES NO

*NOTE: IF THE CLAIMANT WORKED 30 DAYS OR MORE, DO NOT COMPUTE THE HOURS. IF LESS THAN 30 DAYS WAS WORKED, THEN YOU MUST DETERMINE IF THE CLAIMANT WORKED AS MANY AS 240 HOURS.

4. HAVE YOU GIVEN THE CLAIMANT A DEFINITE RETURN TO WORK DATE? YES NO
IF 'YES', ENTER DATE _____

5. IS THE CLAIMANT ELIGIBLE FOR A PENSION FROM YOUR COMPANY? YES NO
IF 'YES', ENTER GROSS MONTHLY AMOUNT \$ _____ AND START DATE _____

6. WILL THE CLAIMANT RECEIVE ANY OF THE FOLLOWING PAYMENTS ON OR AFTER THE LAST DAY OF WORK?

TYPE	GROSS AMOUNT	
HOLIDAY PAY	\$ _____	Date of holidays? _____
VACATION	\$ 136.00	
SEVERANCE	\$ _____	Claimant's Average Weekly Wage During Last Calendar Quarter: \$ _____
OTHER	\$ _____	Type of payment: _____

Is this severance, vacation, or other payment to be assigned to the last day of work? YES NO (circle one)
If YES, this payment(s) will impact only the last week of work; this will minimize the number of weeks that the claimant's benefits may be delayed.

If NO, please answer the following questions:

TYPE	AMOUNT PER WEEK	DATES OF ALLOCATION	
_____	\$ _____	FROM: _____	TO: _____
_____	\$ _____	FROM: _____	TO: _____

(* NOTE: The amount of severance to be applied to each subsequent week must be equal to or greater than the claimant's average weekly wage during the last calendar quarter.

7. ENTER AN 'X' IN THE APPROPRIATE BOX TO INDICATE THE REASON FOR THE CLAIMANT'S SEPARATION FROM YOUR EMPLOY. ADDITIONAL QUESTIONS AND COMMENTS SHOULD BE COMPLETED ON THE REVERSE SIDE. IF ANY OTHER FACTS ARE KNOWN.
____ LACK OF WORK DISCHARGE ____ VOLUNTARY QUIT ____ SUSPENSION ____ LEAVE OF ABSENCE
TO DETERMINE IF THE CLAIMANT IS ELIGIBLE BASED ON HIS REASON FOR SEPARATION FROM YOUR EMPLOY
A TELEPHONIC FACT-FINDING INTERVIEW WILL BE CONDUCTED ON 04/15/14 AT 9:00 a.m. ET.



YOU, OR YOUR REPRESENTATIVE, AND THE CLAIMANT ARE REQUESTED TO PARTICIPATE. PLEASE PROVIDE THE NAME: _____ POSITION TITLE _____ OF THE INDIVIDUAL WHO WILL PARTICIPATE ON YOUR BEHALF, ALSO PROVIDE THE TELEPHONE NUMBER _____ WHERE THIS INDIVIDUAL CAN BE CONTACTED _____

IMPORTANT. IF YOU FAIL TO RESPOND TO THIS REQUEST OR SUBSEQUENT REQUESTS FOR INFORMATION, THE DECISION TO AWARD OR DENY BENEFITS WILL BE BASED ON INFORMATION CONTAINED IN THE RECORD.

THIS INFORMATION MAY BE DISSEMINATED TO OTHER GOVERNMENTAL AGENCIES SUBJECT TO THE VIRGINIA PROTECTION ACT FOR USE IN THE PROPER ADMINISTRATION OF LAW.

USE ~~ADDITIONAL SHEETS~~ IF NECESSARY, FOR ANY INFORMATION YOU HAVE ON

THE CLAIMANT INDICATED THAT, HE/SHE WAS DISCHARGED OR SUSPENDED FROM YOUR EMPLOY.

WHAT DATE WAS THE CLAIMANT FIRST TOLD OF DISCHARGE OR SUSPENSION? 3/17/14

WHAT REASON WAS GIVEN TO THE CLAIMANT? negative attitude, inability to get along with others

HAD CLAIMANT BEEN WARNED ABOUT CONDUCT: YES NO IF YES, GIVE THE DATES Feb 10th 2014 & April 11, 2013

WHAT WAS THE CLAIMANT WARNED ABOUT? same as above

WHAT WAS THE FINAL INCIDENT THAT LED TO DISCHARGE/SUSPENSION? when the customer said he never wanted him in his house again.

WAS THE CLAIMANT DISCHARGED/SUSPENDED FOR A VIOLATION OF COMPANY RULE/POLICY? YES NO

IF YES, WHAT IS THE RULE/POLICY? _____

HOW WAS CLAIMANT INFORMED OF RULE/POLICY? _____ DATE INFORMED? _____

ANY ADDITIONAL INFORMATION YOU MAY DEEM APPROPRIATE: _____

NOTE: ALL INFORMATION PROVIDED ON THIS FORM MAY BE SHARED WITH THE CLAIMANT.

CERTIFICATION: I CERTIFY THAT THE INFORMATION PROVIDED ON THIS FORM IS CORRECT TO THE BEST OF MY KNOWLEDGE, AND THAT THE LAW PROVIDES PENALTIES FOR PROVIDING FALSE STATEMENTS TO ALLOW, PREVENT OR REDUCE THE PAYMENT ON UNEMPLOYMENT BENEFITS.

EMPLOYER NAME _____ VEC ACCT. NO. _____ PHONE _____

COMPLETED BY _____ TITLE _____ DATE 4/14

RETURN THIS FORM TO:

VIRGINIA EMPLOYMENT COMMISSION
703 E Main St Rm 9
P O Box 1779
Richmond VA 23218

PHONE : (866) 354-5579
FAX : (804) 343-1459

Who's on First?

Claimant Discharged (fired):

- The burden is on the employer to prove the claimant was fired due to misconduct.

Claimant Quit

- The employer must show the claimant was not forced to quit, and once established, the claimant must show good cause for leaving.

What to do when the Phone Rings

- Answer the Deputy's questions with facts
- Reference the relevant documentation that supports the separation
- Make certain witnesses with first hand knowledge of the events are available to testify
- Just The Facts!

Facts are NOT

Opinions, speculations,
assumptions,
generalizations, evasions,
predictions, conclusions
made without
corroborating evidence.

Kinds of Facts

- **General background facts** are background information, broadly stated including multiple possibilities, eg,
 - *The claimant was discharged.*
- **Material facts** are pertinent facts & precise eg,
 - *The claimant was discharged for stealing tennis shoes from the distribution warehouse.*

When the Hearing is Over

1. The Deputy will issue a written determination.
2. The determination will be based upon the information obtained as a result of the hearing.
3. This decision will be mailed to both the employer and the claimant.

What if I Do Not Agree with the Decision?

Appeal Rights:

- Either party may file an appeal. This can be done online, in writing or by FAX. The appeal must be filed within 30 days from the date the decision was mailed.
- If the claimant is qualified, they may continue to draw benefits pending the outcome of the appeal.

Misconduct Defined

- A deliberate violation of reasonable company rule, or
- Acts or omissions that, by their nature or reoccurrence, showed a willful disregard of the employer's interests.

Burden of Proof

- The burden of proof is on the employer to show misconduct by a preponderance of evidence.
- Once the employer has proven misconduct, the burden shifts to the claimant to prove mitigating circumstances.

Mitigating Circumstances

- Employee may avoid a disqualification if there was a showing of mitigating circumstances.
- Generally, these will be circumstances that tend to show the employee's actions were not deliberate or willful.

What Is Misconduct in Connection with Work?

- Claimant may be disqualified for misconduct only if it is in connection with work.
- The test is whether there is a reasonable link between the act of misconduct and the claimant's job.

Examples of Acts that can Constitute Misconduct

- Excessive absenteeism or tardiness without proper notice or adequate justification
- Insubordination
- Fighting on the job
- Falsification of job application or company records
- Willful destruction of company property

Examples of What is Not Misconduct

- Poor job performance due to inability
- Poor attendance due to illness where company has been properly notified
- Self-defense from an unprovoked attack

Examples of “Off Duty” Acts that are Connected with Work

- Loss of driver’s license for DUI occurring off duty, but job requires valid driver’s license
- Loss of security clearance due to conviction for off-duty criminal act connected with work

Preparation for a Dismissal to Support Misconduct

- Review company rules and policies to ensure they are clear, understandable and known to all employees.
- Ensure managers & supervisors know the rules and consistently enforce them.
- Require adequate documentation of rule violations & disciplinary action taken.

Benefit Liability

- The last 30 day or 240 hour employer from whom claimant is separated is liable.
- Any reimbursable employer in the base period can be assessed a percentage of the charge.

Employer Charges

Taxable Employer

- Quarterly charge statement will include employee/claimant by name & amount of unemployment insurance paid
- Experience rating is determined in December for the upcoming calendar year and tax rate notices mailed to employers

Benefit Ratio

Charges to the employer are based on the Benefit Ratio.

Benefit Ratio equals

Benefit Charges (within 4 yr period)

Paid Taxable Wages (1st \$8000/worker)

- The computed tax rate is determined by applying the resulting percentage and the trust fund balance factor to the rate tables provided by the law.
- The lower the charges, the lower the ratio. The lower the ratio the lower the tax.

Employer Charges

Reimbursable

- Detailed billing statement is mailed showing all charges for the quarter
- Payment coupon will be included
- Tax charges must be paid 30 days from the date mailed to avoid interest charges

Cost Management Tips

- Evaluate new employees before 30 work days or 240 hours have passed.
- Develop a written policy manual.
- Require that every employee acknowledge in writing their understanding of your policy.
- Follow your policy and document any disciplinary actions.
- Return the Wage and Separation Report on time.
- Participate in the Fact Finding Hearing.
- Supply the first hand testimony and any written documentation.
- File an appeal if you disagree with the outcome.
- Review all benefit charges for accuracy.
- Contact the VEC for any clarification or any correction.



Virginia Employment Commission

Find a Job

Employers

Veterans

Unemployed

Forms/Publications

News

Trade Act

Tax

VEC Central Office

703 E. Main St

Richmond, VA 23219

Mailing Address

P.O. Box 1358

Richmond, VA 23218-1358

866-832-2363

vec.virginia.gov