UNEMPLOYMENT HEARING 101

WHAT IS AN UNEMPLOYMENT INSURANCE HEARING?

An unemployment hearing is an informal fact-finding proceeding before an impartial hearing officer with the state unemployment agency. For unemployment purposes, they are ruling on whether the claimant was separated through no fault of their own. Both employees who have been discharged or quit may be found to be separated through no fault of their own depending on the circumstances of their separation.

WHO SHOULD I BRING TO THE HEARING?

IDENTIFYING AN EFFECTIVE WITNESS

Having the right individual present at the hearing is crucial for the best chance of a favorable decision. The ideal witness(es) should possess first-hand, personal knowledge of the circumstances that led to the claimant's separation. This may not only include the final incident but also all incidents that played a role in the separation. It may be necessary to have multiple witnesses attend the hearing to provide a comprehensive account to the hearing officer.

WHAT DO I BRING TO THE HEARING?

BASIC EMPLOYMENT DATA AND TIMELINE

- Have the claimant's hire date, last day worked, separation date (if different), job title, and ending rate of pay available regardless of separation reason.
- Have a timeline available for your reference with all pertinent dates related to the claimant's employment and separation. This does not need to be sent to the state or claimant.

WHAT DO I BRING TO THE HEARING?

VOLUNTARY QUIT

- A copy of the claimant's written resignation if one was provided.
- The individual who spoke to the claimant regarding their resignation. This person's testimony can be critical in the hearing if the claimant alleges issues during the unemployment hearing that they did not raise before they resigned.

DISCHARGE

VIOLATION OF COMPANY POLICY, FALSIFICATION OF RECORDS, INSUBORDINATION, Etc.

- Details of the incident that resulted in his/her discharge. The specifics of the issue are critical to prove the case.
- How the incident was discovered and substantiated. It is critical to present first-hand testimony to the incident, if possible. If the individual who witnessed the actual violation and the individual who discharged the claimant are different, it is better to have both present for the hearing. Written statements from witnesses to the incident are considered hearsay in an unemployment hearing and cannot overcome the claimant's first-hand testimony.
- A copy of the policy that was violated and the claimant's signed acknowledgment that they received and had the responsibility to review the policy/handbook.
- Copies of any prior warnings or disciplinary actions that were issued to the claimant. It is always best to provide a copy that was signed by the claimant to be able to prove that they were aware of the warning and that their job could be in jeopardy if they received further disciplinary actions.

WHAT DO I BRING TO THE HEARING?

DISCHARGE

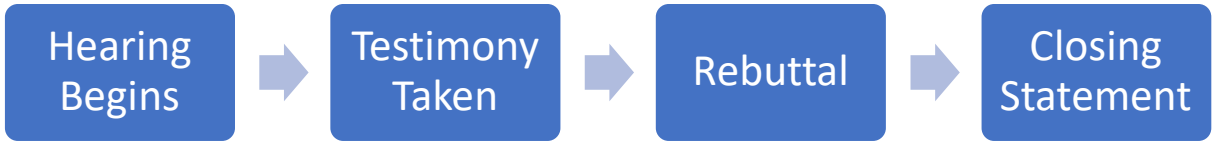
ATTENDANCE/ VIOLATION OF ATTENDANCE POLICY

- Details of the final attendance occurrence including whether the claimant was absent or tardy, whether they followed the required call-in procedures, and what reason they gave for being absent or tardy, if a reason was given. (It will be important to have the reason they provided even if the company's attendance policy is a no-fault policy.)
- A copy of the company's attendance policy and the claimant's signed acknowledgment for receiving the policy or handbook that contains the policy.
- Copies of any prior disciplinary actions or warnings issued to the claimant regarding his/her attendance.
- The claimant's attendance calendar/record, if available.

UNSATISFACTORY PERFORMANCE

- Details of the final incident or evaluation that resulted in the decision to discharge the claimant.
- Details of any specific procedures or instructions that the claimant failed to follow which could have had an impact on their failure to meet the required performance goals.
- Any proof that the claimant had shown the ability to meet the performance standards consistently in the past and that there were no changes to the job duties.
- Copies of any prior disciplinary actions, warnings, or PIPs that had been issued to the claimant regarding their performance issues.

Reminder: The documents listed must be submitted for the initial claim. The Hearing Officer has the right to refuse any new evidence.



WHAT IS THE PROCESS DURING THE HEARING?

Hearing Begins

- The Hearing Officer will explain how the hearing will be conducted.
- All witnesses will be sworn in.
- The Hearing Officer will begin the recording of the hearing.

Testimony Taken

- The Hearing Officer will ask questions of each witness individually.
- The main spokesperson asks any relevant follow-up questions.
- Support documentation is identified and made part of the hearing record.

Rebuttal

- Hearing Officer asks for clarifying testimony from either or both parties.

Closing Statement

- Hearing Officer gives final instructions and advises that decision will be in writing.
- Both parties allowed to make a closing statement on why the decision should be in their favor based on the evidence and testimony presented.

- Closing statement is not meant to be recap of all testimony and evidence.
- A party can decline to make a closing statement and "stand on the record."

WHAT'S MY ROLE IN THE HEARING PROCESS?

Upon Receipt of Hearing Notice/ Prior to Hearing Date

- Notify all witnesses of date, time, and place of hearing.
- Ensure all relevant documents have been submitted.
- Communicate all witness contact information to HRlogics.
- Schedule call with HRlogics to discuss details of case and prepare for hearing.

On Hearing Date

- Be available at time of hearing with no distractions.
- Have all employment details and documents available.
- Provide detailed answers to all Hearing Officer questions.
- Notify HRlogics if Hearing Officer has not called or connected to hearing within 10 minutes of scheduled hearing time.

After Hearing

- Notify HRlogics if unexpected issue or problem arose during the hearing while information is fresh in your mind.
- Await written decision from Hearing Officer.

- When notified of decision by HRlogics, review and advise if you would like to pursue further appeal or to discuss a potential appeal.