



Pennsylvania Unemployment Compensation Newsletter

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EXTRA! EXTRA! READ ALL ABOUT IT! *HEADLINES FROM THE COURT*



The Commonwealth Court is the appellate body that reviews, among other matters, cases appealed from decisions rendered by the Unemployment Compensation Board of Review. Not all of the cases reviewed by the Court result in published decisions. However, those cases that involve an important legal issue of continuing public interest are published and then followed by lower tribunals, such as Unemployment Compensation Referees and the Unemployment Compensation Board of Review.

Recently, the Court has published decisions addressing the following issues:

- An alien whose work authorization has expired is not “able to work and available for suitable work” under Section 401(d)(1) of the Law and is, therefore, ineligible for benefits. Libardo Estrada Ruiz v. UCBR, No. 1343 C.D. 2006, Filed November 20, 2006; Tujudeen A. Jimoh v. UCBR, No. 1793 C.D. 2005, Filed July 6, 2006.
- The elimination of health care benefits previously provided to employees constitutes a substantial change in employment terms and, therefore, constitutes a necessary and compelling reason to voluntarily quit, thereby rendering the claimant eligible for benefits. Brunswick Hotel & Conference Center, LLC v. UCBR, No. 464 C.D. 2006, Filed August 23, 2006.
- A party who chooses to file an appeal from a Referee’s decision by electronic submission accepts the risk that the appeal may not be properly or timely filed with the Board. Edward McClean v. UCBR, No. 716 C.D. 2006, Filed September 27, 2006.
- A worker who is offered full-time work within 26 weeks of his or her date of separation but does not actually begin working within that time frame is ineligible for Alternative Trade Adjustment Assistance (ATAA) benefits. Catherine Orrs v. UCBR, No. 905 C.D. 2006, Filed October 31, 2006.
- The Law presumes that an individual is an employee as opposed to an independent contractor, but this presumption may be overcome if the putative employer sustains its burden of showing that the claimant was free from control and direction in the performance of his service *and* that the claimant conducts his services as an “independently established” business. Beacon Flag Car Co., Inc. v. UCBR, No. 928 C.D. 2006, Filed October 31, 2006.

(Copies of these decisions may be requested at uc@trc-law.com)

COST CUTTING MEASURES

“As an employer, how can I cut my unemployment compensation costs?”

That’s a question most employers would like to have answered. While there is no one simple answer, the best solution is to follow some personnel practices in a consistent manner, particularly with respect to new hires. For example:

◆ **Hold an Orientation Session.** All new employees should attend a standard session at which they are provided with all of the information and documentation necessary to enable them to become effective employees, including your rules, expectations and policies. A record should be kept of all employees who attend the orientation session by having the employees sign and date an attendance roster. That roster may subsequently be used as evidence to establish that an employee was aware of your expectations, policies and rules should he or she deny such awareness at a UC hearing.

◆ **Give All New Employees an Employee Handbook.** This is



the best and most convenient way to make certain all employees are aware of your rules and policies. Require each employee to verify, in writing, that he or she received the handbook, the date they received it, and that he or she has reviewed and understand your policies. Again, this is evidence that the employee was adequately informed.

◆ **Conduct New Employee Performance Appraisals.** During the initial period of employment, if the new hire is failing to meet your expectations, you need to take remedial action. First, counsel the employee regarding his or her deficiencies. Give the employee specific instructions as to how to improve and correct those deficiencies. Give the employee a specific deadline as to when you must notice an improvement. Make certain that the new employee is aware of the potential consequences should he or she fail to improve. Most importantly - DOCUMENT, DOCUMENT, DOCUMENT! You may need proof that these steps were taken in order to defeat a claim for UC benefits.

These are just some practices that may help you reduce your unemployment compensation costs. Look for more tips in future editions!

ATTENTION READERS, the editors of Thomson, Rhodes & Cowie Pennsylvania Unemployment Compensation Newsletter invite you to submit questions you may have dealing with unemployment compensation issues. The editors will compile questions received and periodically provide answers to recurrent issues. Submission of a question is no guarantee that an answer will be provided, but we will make every effort to answer as many questions as possible. Of course, for specific legal advice the reader should seek counsel from a qualified unemployment compensation attorney.

Send questions to: Margaret M. Hock, Esquire, Thomson, Rhodes & Cowie, P.C., 1010 Two Chatham Center, Pittsburgh, PA 15219.

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