

# UNEMPLOYMENT INSURANCE: WHEN YOU'VE BEEN FIRED

---

You can get Unemployment if you were fired (discharged or terminated) *unless* the employer shows it was for "misconduct connected with the work."

**Get legal advice before applying for Unemployment benefits.** (You must be clear in your application and interview, to avoid a denial or penalty.) "Misconduct" has a very specific legal definition. The employer has to show that you:

- ✓ Broke a work-related rule or failed to perform a job duty;
- ✓ Did this "**knowingly**" (not by accident)
- ✓ the rule or duty was important;
- ✓ the employer's business could be harmed by this kind of conduct.

Common examples of misconduct: constant tardiness/absences, violation of phone use at work; deliberate insubordination. Examples of what usually is *not* misconduct: the inability to do the job or not getting along. What matters is the employer's actual reason, not what they told you.

## **Possible defenses**

Even if you were fired for misconduct, you may have a defense:

1. The incompetence defense (you were unable to do the job)
2. The single, isolated incident defense (you made a single mistake, especially if it was unusual, uncontrollable or motivated by a momentary lapse of reason)
3. The employer "condonation" defense (the employer knew of your behavior, did nothing about it, and it has now been a long time)
4. The causal connection defense (the last event was not misconduct and the employer is trying to rely on old issues which have no connection to the event that led to your being fired)

Go to [www.elc-las.org](http://www.elc-las.org) for a free on-line manual on Employment Insurance.

**Denied?** Ask for a hearing. Get legal advice.

Call your local Legal Aid program for help!

Or the Worker's Rights Clinic  
(toll free) 1-866-864-8208