



HR for Business - ConsultStu LLC

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111 2nd Avenue NE, Suite 519
Mailing: P.O. Box 56534
St. Petersburg, FL 33732-6534

Information Paper

Office (727) 350-0370
Cell (727) 488-6965
Fax (727) 214-1208
info@consultstu.com
www.consultstu.com

Topic: 6 tips to curb costly unemployment claims

Is your organization's SUTA rate too high? Several years ago, the Florida legislature revised the laws regarding unemployment, and gave it a facelift. After years of high unemployment, the rules were re-written to level the playing field between employers and the unemployed. The length of benefits dropped for unemployed workers depending on the state unemployment rate, and there were some statutory changes that changed the way employers should contest and challenge unemployment claims. Take action and control your SUTA expenses by having a plan and then effectively challenge the unemployment claims submitted by terminating employees who should be disqualified.

The good news is that the new standard lowered the employer burden in cases where the terminated employee violated company policy. Employers no longer need to show "willful and wanton" intent to violate the policy to deny the claim, and now need to meet the lower standard of "conscious disregard" of the reasonable standards of behavior which the employer should expect of employees. Although this is a lower burden of proof, the employer still needs to prove misconduct.

Here are six recommendations to improve your win percentage of unemployment claims and thereby lowering your overall SUTA rate – and boosting your bottom line.

1. Maintain a written 90 day introductory period for new hires, and document terminations within the first 90 days. Florida statute gives employers a "free" 90 days, and does not charge benefits to employees let go in the first 90 days. Closely watch your FL quarterly statement (RT-6) for accuracy and respond to errors and corrections right away.
2. Document employee quits, whether written documentation from the employee (best) or an internal HR/payroll form documenting the voluntary quit. You want proof they quit. A worker is disqualified from unemployment if they voluntarily quit, unless they have good cause attributable to the employer. Be prepared to show that the employee's actions were "unreasonable", if they put down a reason for quitting on their claim form.
3. Maintain an open door policy and/or problem solving policy that is signed off by employees. The absence of a complaint or use of the open door policy can be used to show the company was not given an opportunity to discuss a dispute with the employee – thus, no "good cause" to quit.
4. Use a no call, no show policy (signed off by employees) and preferably use two days or more as the standard. Treat these cases as job abandonment and a voluntary resignation. Obtain a



written note from the front line supervisor that documents the absences, and he/she can later testify about the work absences.

5. Misconduct requires proof of a “reasonable standard of behavior” in writing (signed off by the employee) and sufficient evidence that the employee violated the standard or rule. So, make sure the employee handbook policies prohibits the conduct that is outlined in the Florida statutes. (a) willful damage to employer’s property with damage of more than \$50; (b) theft of employer, coworker or customer property; (c) carelessness or negligence in performance of work duties; (d) acts showing intentional and substantial disregard of the employer’s interests (or employees duties and obligations); (e) chronic absenteeism or tardiness following a written reprimand or warning for absences; (f) willful and deliberate violation of Florida licensing or certification standard or regulation by employee (if it would cause sanction or suspension of an employer license); and (g) criminal assault or battery on another employee, customer or invitee.

6. To prove misconduct, be prepared to submit the following: employee handbook policies, employee sign off to the handbook, prior written warnings to others for this rule violation, progressive discipline policy, training records to show employee knowledge and the investigation report showing that misconduct happened. Also, write up and submit a short persuasive statement from the employers’ perspective that brings all the evidence together to show why the employee is disqualified.

The key to success is recognizing that the unemployment system is set up to pay benefits, and the employer is required to document, document and document. Be prepared by setting up the policies, practices and training that limits your exposure to unnecessary losses.

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