

BENEFITS FROM THE VIRGINIA EMPLOYMENT COMMISSION

You may receive this help for a short period of time if your former employer cannot prove your discharge was your own fault. Get legal advice before you apply. The VEC will meet with you to decide your claim. You may have a lawyer or other person at that meeting with you. The Central Virginia Legal Aid Society (CVLAS) offers advice and representation to eligible unemployment claimants (low income or over the age of 60) at no cost.

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WHAT ARE MY RIGHTS AFTER I HAVE LOST MY JOB?

This pamphlet contains general information about your rights. Consult a lawyer if you have specific questions.

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CVLAS is a non-profit organization providing free legal advice, and representation to low income or elderly people in Central Virginia. Contact us Monday - Thursday 9-12 to see if you qualify for services.

This project financially assisted
by the Virginia Law Foundation.



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WHAT SHOULD I DO?

1. Read the section on “Exceptions to the employment at will Rule” and see if you fall into one of the exceptions. If you are not an exception, you probably only get unemployment compensation.
2. If you are an exception, then contact a lawyer right away.
3. Also, if you are an exception, you can also apply for benefits from the Virginia Employment Commission (VEC). Once you apply, your employer has to prove that he fired you for something that you did. If he can’t prove this, you will get money from the VEC.

EXCEPTIONS TO THE EMPLOYMENT AT WILL RULE

In Virginia, an employer may fire an employee at any time, for any reason, and the employee can do nothing about it. This is the Employment-At-Will Rule. It says your employer can fire you just as easily as you can quit. But, this rule does not always apply. Here are the most common exceptions:

Discrimination - An employer cannot discriminate against you because of your race, sex, age (over 40), handicap, national origin, or religion. Discrimination laws also prohibit sexual harassment. The employer can also not fire you for a previous complaint of discrimination. Did your employer use racist or sexist language or make other remarks based on your race, sex, etc.? Did your employer tolerate such remarks by your coworkers? Did the employer treat people in your position of different races, sexes, etc., differently in discipline, working conditions, privileges, or promotions without a good reason? Such facts would be a sign of illegal discrimination.

Union members and Teachers

Usually labor union members and teachers (and occasionally others) have written employment contracts that require good cause for firing an employee. Firing such an employee without good cause is a violation of the contract. Violations of a union contract must ordinarily be challenged through the union’s own procedure. Get a copy of the contract so a lawyer can review it.

Government Employees

Most government employees past a probationary time period can be fired only for good cause and in line with government policies. If an employee is fired without these protections, the employee may challenge the firing through the government’s procedures. The government must provide a fair procedure which follows certain constitutional requirements.

Employee handbooks

Employers may have rules for discharges that may be in an employee handbook or manual. The rules may say you can only be fired for good cause. The rules may also say the employer needs do certain things like meeting with you and discussing the problems before firing you. Or the handbook may indicate you have earned job security as a “permanent” employee once you have passed a certain time period. If the employer fails to follow its own rules, you may be able to sue. This may also be true if your employer broke verbal promises about your job.

Discharges against public policy

Some discharges harm the public as well as the person discharged. Examples include an

employee who is fired for serving on a jury, for reporting safety violations, for filing a worker’s compensation claims, for reporting wrongdoing at a plant (in some cases), for refusing to vote as the employer orders, for union-organizing or other efforts with fellow workers to improve conditions, for performing national guard duty, for refusing to go along with an employer’s criminal actions, etc. Any cause in which an employee is fired for performing his civic duty or for exercising his legal rights may come under this category. If this happened to you, you may be able to file a complaint or sue.

IF YOU ARE AN EXCEPTION YOU SHOULD CONTACT AN LAWYER

If you think you fall under one of these exceptions and decide you want to take legal action, see a lawyer immediately. Do not delay. Different deadlines apply to different legal action. You may have to act in as few as 30 days.

Meanwhile, follow any complaint procedure available to you. Do not miss its deadlines. If you have a union, see the union leader immediately.

IF I HAVE A SUCCESSFUL CLAIM, WHAT CAN I GET?

If you are successful on your claim, you may get paid for lost wages and compensated for other damages cause by the discharge. In some cases you may get your job back also. Only rarely with the court grant damages based on the employers bad behavior. Your claim for damages may be reduced if you fail to look for acceptable new work to replace the job you lost.