



TUETH KEENEY
COOPER MOHAN JACKSTADT P.C.

Handling an Unemployment Claim – From Start to Finish

MASA / MOSPRA Spring Conference 2022

Presented by:

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Date:

March 24, 2022

DIFFERENT
BY DESIGN



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OUR FIRM

Our law firm is **DIFFERENT BY DESIGN**. We pride ourselves in our ability to provide quality legal services with significantly greater responsiveness, efficiency, and value. **PERSONAL CONTACT**, **QUALITY SERVICES** and **EFFICIENT RESULTS** are the deeply-held values that shape our relationships and drive our success. We believe clients deserve honest, accurate, and practical answers to their legal issues, delivered in the most efficient manner, from attorneys they know, like and trust.

Our attorneys recognize the need to deliver real-world, tangible solutions with quality and transparency. We form enduring relationships and friendships with our clients. We strive to bring creative thinking and innovative solutions to every client's legal challenges.

PERSONAL CONTACT; QUALITY SERVICES; EFFICIENT RESULTS. We invite you to learn more about our Firm, our practice areas and our attorneys.



Disclaimer

The materials available in this Guidance are for informational purposes only. You should contact legal counsel to obtain advice with respect to any particular issue or problem.



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Overview

Statistics

From [Bureau of Labor Statistics](#), [United States Department of Labor](#) via [Data Commons](#)

Missouri

United States

Unemployment rate

3.8%

Updated Jan 2022

Total unemployed people

118K

Updated Jan 2022

Unemployment insurance claims

22K

Updated Mar 12, 2022

Unemployment rate | Total unemployed people | Unemployment insurance claims



Unemployment rate is collected once a month · Numbers are seasonally adjusted

Today's Agenda

- Eligibility for benefits
- Defenses to claims
- Procedure for unemployment claims
- Preparing for each stage of a claim
- Strategies for defending claims
- Pitfalls!

Benefit Eligibility

- Employee loses job or has hours reduced
 - Through no fault of employee or
 - Quits for good cause related to the work or employer
- Makes the threshold amount of wages during base period

Benefit Eligibility

- Report all wages earned each week
- Must be able and available for work each week
- Report to job center, when requested
- Not refuse an offer of work

Defenses to Claims

- Must **TIMELY PROTEST** and **ASSERT DEFENSES!!!**
- **Voluntary quit for reasons not attributable to work or the employer**
- **Fired for misconduct connected to work**
- **Refused work**
- **Is suspended or on a leave of absence**
- **Not able or available for work**
- **Reasonable assurance to return to work**

Defenses to Claims

- Common Examples of defenses:
- Conditions are unsafe
- Stealing, sexual harassment, excessive absenteeism
- On FMLA leave, STD leave, WC leave
- Receiving Social Security or LTD benefits
- Letter of intent to return in fall semester

PROCEDURE

- Claim
- Protest – **on time! 10 days!!**
- Investigation
- Deputy Determination
- Appeal to Tribunal (Referee) – **on time!**
 - **30 days** from date of determination
- Hearing before the Referee – **attend!**
 - Via phone or in-person
 - May request postponement if not available

PROCEDURE

- Hearing before the Referee, cont'd
 - If District appealed and doesn't participate, appeal is dismissed and deputy determination stands
 - If Employee appealed and District doesn't participate, referee's decision is based solely on the employee's testimony
- Appeals Tribunal (referee) Decision

PROCEDURE

- Appeal to the Labor and Industrial Relations Commission – **on time!**
 - Within **30 days** of referee's decision
 - Cannot appeal if didn't participate before referee, without good cause
- LIRC Decision
- Appeal to the Missouri Court of Appeals
 - Within **30 days** of LIRC decision
- **TOTAL OF 4 POSSIBLE DECISIONS!!!**

How to prepare for each stage

PROTEST STAGE

- * Consider all defenses
- * Raise all applicable defenses
- * Submit applicable personnel records
- * Submit other documents that support defense, i.e., policies, handbook, collective bargaining agreement

How to prepare for each stage

APPEALS TRIBUNAL

- * Gather any new documents
- * Must send in ALL of your documentary evidence to the tribunal and to the employee in advance

How to prepare for each stage

APPEALS TRIBUNAL

- * Must present your case
- * Carefully consider who should attend the hearing – **need direct knowledge!!**
- * Hearing is “on the record”
- * Consider requesting in-person hearing

How to prepare for each stage

LIRC

- * Not a new chance to hear the case
- * LIRC reviews the record from the Appeals Tribunal
- * No new hearing!
- * Occasionally, oral argument
- * Can only present new evidence if show that it was not available previously

How to prepare for each stage

Court of Appeals

- * Not a new chance to hear the case
- * Court reviews the decision of the LIRC
- * Must have legal counsel prepare appeal and briefs
- * If oral argument, legal counsel must present

Strategies for preparing your defenses

- Consider all defenses
- Consider all records that can help prove the defenses
- Consider all witnesses who should testify
- Consider getting legal counsel involved early

Preparation is the key to success!!

Pitfalls

- Consider if other claims are raised, i.e., charge of discrimination, internal grievance or complaint
- Consider if workers' compensation claim is filed
- Is this a vehicle to get other testimony / admissions to assist in other claims?
- Testimony is "on the record" and "under oath"

QUESTIONS?



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