

UNEMPLOYMENT BENEFITS: TERMINATIONS AND EMPLOYMENT POLICIES

by

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March 19, 2015

Employers may consider whether their policies and practices assist in addressing claims by ex-employees for unemployment benefits. NH RSA sec. 282-A sets out several reasons for disqualifying an employee from receiving benefits for certain periods:

- misconduct connected with work
- intoxication or use of drugs as to hamper or interfere with the employee's work
- theft of goods connected with work
- arson
- sabotage
- felony, assault which causes bodily injury
- criminal threatening
- disciplinary layoff for a reasonable term and based upon good cause

Specific policies based on these reasons for termination or discipline may assist the employer. Such policies can be described as examples of cause for termination and remind management of the need to prove the employee's conduct that led to the termination/discipline. Gathering the facts to prove the conduct before the termination can help in the employer's presentation at NHES. For example, if the employer has a drug and alcohol testing program, which requires testing for cause, a positive can be a powerful piece of evidence.

282-A:32 Disqualifications for Benefits. – In this section, "date" as used in "subsequent to the date" means the last calendar day on which the individual performed services for the employer. An individual shall be disqualified for benefits and no waiting period may be served:

- I. Until the individual has earned in each of 5 weeks wages in employment as defined in RSA 282-A:9, except RSA 282-A:9, IV(f), or wages earned in a like manner in another state, of at least 20 percent more than such individual's weekly benefit amount, subsequent to the date:

(b) He was discharged for misconduct connected with his work, if so found by the commissioner;

282-A:34 Intoxication; Drugs; Theft.

- I. An unemployed individual who has been **discharged for intoxication or use of controlled drugs** as defined in RSA 318-B:1, VI, of such degree and rate of occurrence as to seriously hamper or interfere with the individual's work, shall be disqualified for benefits. Such disqualification shall continue until a period of not less than 4 weeks nor more than 26 weeks from the date of discharge, as may be determined by the commissioner, has passed and until such individual has earned wages as provided in RSA 282-A:32, I.
- II. An unemployed individual who has been **discharged for a single theft or multiple thefts in the aggregate of an amount greater than \$100 but less than \$250**, where such conduct is connected with his or her work, shall be disqualified for benefits. Such disqualification shall continue until a period of not less than 4 weeks nor more than 26 weeks from the date of discharge, as may be determined by the commissioner, has passed and until such individual has earned wages as provided in RSA 282-A:32, I.

282-A:35 Gross Misconduct. – An unemployed individual who has been **discharged for arson, sabotage, felony, assault which causes bodily injury, criminal threatening, or a single theft or multiple thefts in the aggregate of an amount equal to or greater than \$250**, where such conduct is connected with his or her work, shall suffer the loss of all wage credits earned prior to the date of such dismissal.

282-A:40 Disciplinary Layoff. – An individual shall be disqualified for benefits for the duration of his **disciplinary layoff; provided, however, that the disciplinary layoff is for a reasonable term and based upon good cause** as determined by the commissioner or his authorized representative.