

SERVICE BULLETIN

The Letter of Resignation



TO: T&T Clients
FROM: Kris Thorngren
RE: Letters of Resignation
DATE: July 24, 2009

A good argument can be made that the letter of resignation has become a more important document now than ever before. From the standpoint of protecting the employer from unwarranted unemployment claims, it has become increasingly helpful to document the specific reason for separation. Not all voluntary quits are treated the same under state unemployment laws. Some reasons for quitting are disqualifying and others are not.

A letter of resignation can be a powerful document. It need not be formal, and it need not be written on a company form. It is most helpful when it is dated, it provides a clear explanation of the reason for separation, and it is signed. This offers significant protection to the employer in the event that a dispute arises as to the reason for separation. If an attempt is made to alter the reason for separation upon filing a claim for UI benefits, the letter of resignation will be difficult to overcome.

Not too many years ago the state unemployment laws were pretty consistent in their treatment of voluntary resignations. An individual would generally be disqualified unless the resignation was for good cause connected to the work. For example, a claim would be approved if the individual quit because of unsafe working conditions, discrimination, or harassment.

This precept has gradually been modified. A wide variety of provisions have crept into state unemployment laws which permit the payment of benefits to a person whose resignation had nothing to do with the work or the employer. For many years the most prevalent exception has been to grant benefits when a person is compelled to quit because of the illness or injury of a member of the immediate family.

The pace of the evolution of state unemployment laws has been quickening. There is now an ever-expanding list of reasons why a claimant may be found eligible for UI benefits following a voluntary resignation. Following are examples of situations in which a disqualification is not imposed:

- Quitting (or being discharged) because of addiction to intoxicating beverages or controlled substances, if in an approved treatment program. (Colorado)
- Quitting to accompany a spouse who has been reassigned from one military base to another. (Georgia)
- Quitting because a spouse has obtained employment requiring the family to move outside of commuting distance. (Oklahoma)
- Quitting to accept a bona fide offer of work. (Washington)
- Quitting for reasons of such an urgent, compelling and necessitous nature as to make the separation involuntary. (Massachusetts)
- Quitting within thirty days of beginning employment because the employment is unsuitable for the individual. (Minnesota)

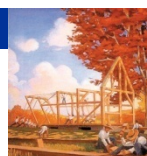
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Thomas & Thorngren, Inc.

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<http://www.thomasandthorngren.com>



Thomas & Thorngren, Inc.
One Vantage Way, Ste A-105
Nashville, Tennessee 37228
(615) 242-8246

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As we have reported in earlier bulletins, the Recovery Act, which became law in February, includes incentives for states to further expand the eligibility for unemployment benefits. Specifically, states are encouraged to approve UI claims when an individual resigns for compelling family reasons, including domestic violence, illness or disability in the immediate family, and the need to accompany a spouse because of a change in the spouse's employment. Many states have already passed legislation incorporating these provisions, in order to secure their share of the \$7 billion in available federal funds.

In our line of work, we observe many instances in which the reason for separation is expanded upon, changed, or spun after filing an unemployment claim. An individual may provide the employer with one reason for separation, and then provide the UI claim office with another reason. Some of the variance is simply a matter of the clarity, or lack thereof, of the communication, some of it is the result of time passing, which changes everyone's perspective, and some of it can be attributed to the desire to be eligible for unemployment compensation benefits. When \$10,000 or more of potential benefits are at stake, an individual may be tempted to create a bit of revisionist history upon filing a claim.

In this "new world" of unemployment compensation, we think it is advisable to pay renewed attention to securing letters of resignation, and to make an effort to ensure that they contain a clear reason for the resignation. As you know, we are not a law firm, and we would encourage you to seek legal advice on this and any other human resources policy.

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