Alabama UC Bootcamp

Alabama Unemployment Bootcamp for Employers – Getting Fit to Win – Part 1

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Why Participate in this Training?

- Why should I care?
- How will this Training make my life better?
- What must I do?
Why Should I Care?

- Lost UC claims cost Alabama’s Employer’s $$$ on their experience ratings.
- UC taxes are a cost of doing business you can control.
- Lose enough UC claims and you will be unemployed.
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How Will This Training Make My Life Better?

- Winning lowers employer experience ratings equals lower UC taxes
- Winning the UC hearing is evidence that you conducted a proper termination
- Potential greater savings in related employment litigation
What Must I Do?

- Download this presentation
- Adopt policy, handbooks and forms to implement a winning UC strategy
- Train supervisors on what steps they can take to help win UC case
In which disqualification box does your employee’s UC Claim fit?
In which disqualification box does your employee’s UC Claim fit?

- Voluntary quit
- Act endangering safety of others
- Use of illegal drugs after previous warning
- Criminal act
- Dishonest act
- Actual or threatened misconduct connected with work- after repeated warning
- Misconduct – no prior warning
- License revocation
Voluntary Quit - Ala. Code §25-4-78(2)

- An individual shall be disqualified from unemployment benefits if he/she has left their most recent bona fide work without good cause connected with such work.

- Total Disqualification
Voluntary Quit - Ala. Code §25-4-78(2)

Employer has burden to prove there was a voluntary quit. Once proven, the burden shifts to employee to prove they quit for a “good work-connected cause”.

Voluntary Quit - Ala. Code §25-4-78(2)
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“Good work-connected cause

Examples??

Risk reduction strategies??
Voluntary Quit - Ala. Code §25-4-78(2)

- Excellent “personal” reason for voluntarily leaving will never satisfy the conditions of §25-4-78(2) – no matter how well justified.
  - Child care, broken down car

- Fit Employers get resignations in writing
Act Endangering Safety of Others - Ala. Code §25-4-78(3)(a)

- Total Disqualification
- Fit Employers get it in writing by taking signed statements, photos, etc.
Act Endangering Safety of Others - Ala. Code §25-4-78(3)(a)

Fit Employers learn Do’s and Don’ts under Alabama Guns in the Parking Lot Act and adopt workplace violence prevention policy, safety policy, etc.
Use of Illegal Drugs - Ala. Code §25-4-78(3)(a)

- Use of Illegal Drugs after Previous Warning, Refusal to Submit to or Cooperate with Blood or Urine Test

- Total Disqualification

- Fit Employers have an Alabama Drug Free Workplace Policy, Forms and have a report from MRO.
Use of Illegal Drugs - Ala. Code §25-4-78(3)(a)

- Fit Employer has signed consent to be tested with “warning” of discharge consequences

- Fit Employer has employee sign acknowledgment of consequences of refusal form

- Fit Employer uniformly applies drug testing policy to all employees

- Fit Employer does not send collector 30 minutes prior to quitting time
Criminal Act - Ala. Code §25-4-78(3)(a)

- Total Disqualification
- Small amounts of theft – does it matter?
  - Anthony Williams – Amount is not relevant ($3.51 for Potato Salad/Slaw)
  - Filing of Police Report – Is it necessary? (Not with ADOL, but some Circuit Judges)
- Fit Employers file a police report or at the very least takes signed statements
Dishonest Act - Ala. Code §25-4-78(3)(a)

- “...characterized by lack of truth, honesty, probity or trustworthiness or by inclination to mislead, lie, cheat or defraud....”

- False statement in employment application?

- Forging a Doctor’s Note?
Dishonest Act - Ala. Code §25-4-78(3)(a)

- Fit Employer have list of dischargeable offenses in Handbook or Rules that match Alabama UC disqualifications

- Fit Employers are not afraid to label conduct a dishonest act in their discharge documents

- Employee Defamation Immunity?
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Dishonest Act - Ala. Code §25-4-78(3)(a)

- Off-Duty Misconduct – Does it matter?
- What if a bank employee?
- Fit Employers have written job descriptions listing essential functions and essential qualifications

Dishonest Act - Ala. Code §25-4-78(3)(a)
Misconduct - Ala. Code §25-4-78(3)(b)

- Actual or Threatened Misconduct - Repeated after Previous Warning – Total Disqualification

- Burden is on Employer to Prove Misconduct

- Do prior warnings have to be for same misconduct?
No Fault Policies?

Fit Employers have prior written warning signed by employees and use broad Final Written Warning

Misconduct - Ala. Code §25-4-78(3)(b)
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Misconduct - Ala. Code §25-4-78(3)(b)

- Fit Employers use Final Written Warning, referencing policy from Handbook or work rule violated

- Warning signed by employee with 2nd supervisor as meeting witness
Misconduct - Ala. Code §25-4-78(3)(c)

- Misconduct connected with work – No Prior Warning
- Only Partial Disqualification (4-8 Weeks)
- # weeks is dependent on seriousness of conduct
- Employer experience rating is only charged ½ of total benefits paid
- Prior warnings but for different misconduct – Judges and ADOL may take different positions
Misconduct connected with work – No Prior Warning

Fit Employers try to correct employee performance or conduct issues with Progressive Discipline

Fit Employers show patience
License Revocation - Ala. Code §25-4-78(4)

- License essential qualification for position
- Not longer insurable at standard rates
- Fit Employers have job description with essential qualifications
Employer’s duty to timely respond to UC examiners request for information - Act No. 2013-312
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- SB201 Effective August 01, 2013
- Will be Codified under *Ala. Code* §25-4-78 ;
- Currently, if an employer fails to respond to our request for information on a UC claim (i.e. Ben241) and a claimant thereafter receives unemployment compensation because of that failure to respond, the employer is not penalized.
Under this new law, the employer will still be liable for the charging because they failed to send in the initial information requested by ADOL. New law states that the employer is only charged if there is shown a pattern of failing to respond. (Two or more occasions – establishes a pattern).
Employer’s duty to timely respond to UC examiners request for information - Act No. 2013-312

Example: John Doe files a UC Claim. ADOL sends a request for separation information to Bob’s Glass Shop where John Doe worked. Bob’s Glass Shop fails to send in

John Doe is determined eligible for benefits. When Bob’s Glass Shop learns of the determination, they file an appeal in circuit court. On appeal, John Doe is found guilty of misconduct after warning and is disqualified.
At this point John Doe has an overpayment, and Bob’s Glass Shop is relieved of all charging. Under the new law, Bob’s Glass Shop would still be liable for the benefit charges because they failed to respond to examiner’s request for information.

As a result, the employer would be charged, but ADOL would still collect the overpayment.
5 Step Bootcamp Fitness Plan

1. Use This Webinar To Train Supervisors
2. Adopt Legally Complaint Employee Handbook and Rules
3. Adopt Alabama Drug Free Workplace Policy
4. Timely Respond to ADOL request & prepare to win UC Hearing
5. Be diligent to protect your experience rating
Success:

Because you can own this face of pure accomplishment
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