

2009 Best Practices Tip

Unemployment Compensation Hearings: Guidance for Witnesses

Who Is Required to Appear at the Hearing?

Unemployment hearings require first-hand testimony to the facts and/or events under consideration. Therefore, persons with direct knowledge of the issues that caused the job separation, especially those relating to the final incident, are needed to participate at the hearing. While some states will permit hearsay testimony and accept notarized statements from non-appearing witnesses, this type of information is never sufficient to overcome direct, first-hand testimony from either the claimant or the claimant's witnesses.

Prepare for the Hearing

Typically, dependant upon your contracted services, several days before the hearing, a TALX representative will contact the required witnesses to discuss the facts of the case and review the specific points that will be addressed. It is important to make the TALX representative aware of all relevant facts, written documentation and other persons who have first-hand knowledge, during this preliminary discussion. At the conclusion of this conversation, all witnesses should understand the issue(s) involved, as well as what information will be required during their testimony. Part of the required testimony may be the identification and discussion of the relevant written documentation; e.g., attendance records, corrective action, warnings, and company policy.

Common Questions Asked During the Hearings

All unemployment hearings begin with the same initial questions regarding the former employee's employment. The questions, though not apparently crucial to the final outcome, can establish or destroy the witnesses' credibility with the administrative law judge. The questions asked are:

- The former employee's position
- Rate of pay
- First date worked
- Last day worked and last day employed if different

If a witness' testimony is uncertain or incorrect on these basic facts, the remaining testimony may be questioned as to its truth and/or accuracy and credibility.



Unemployment Hearing Procedure

Unemployment insurance hearings are informal, administrative proceedings designed to be fact-finding, non-confrontational in nature. The hearing is conducted by an administrative law judge or hearing referee. The administrative law judge is responsible for gathering the relevant facts regarding the cause(s) of the former employee's job separation. Essentially the administrative law judge must determine whether the former employee quit for good cause or was discharged for an intentional violation of a reasonable, work-connected employer rule or expectation. The administrative law judge mails a written decision regarding benefits eligibility to the parties after the conclusion of the hearing.