

Looking Out For Your Legal Rights®

December 2015

Published by Legal Services of New Jersey

Volume 34, Number 10

People who leave their jobs by choice are generally disqualified from receiving unemployment benefits. But there are several exceptions that would allow a worker to resign and still get benefits. *Page 1*

The New Jersey security deposit law, the Rent Security Deposit Act, specifies how a landlord must collect, maintain, and return a security deposit. *Page 5*

Clearing Your Record Online can help you find out whether you are eligible to expunge your criminal record. *Page 11*

*Cuáles Son Sus
Derechos Legales*

La versión en
español la encontrará
al reverso.

YOU AND YOUR JOB:

Can You Get Unemployment Benefits If You Resign for Medical Reasons?

PEOPLE WHO leave their jobs by choice are generally disqualified from receiving unemployment benefits. But there are several exceptions that would allow a worker to resign and still get benefits. For example:

- If you resigned because a physical or mental disability made it difficult or impossible to perform the work, you may be eligible for benefits.
- If you resigned because of illness or injury, you may be eligible for benefits if you meet certain conditions.

This article explains the steps you can take to get unemployment benefits when a medical condition makes it necessary to leave your job.

To get unemployment benefits, you must be both “eligible” and “non-disqualified.”

How do I know if I’m eligible?

To be eligible, you must:

- Have worked at least 20 weeks (earning at least \$167 per week) during the base year (roughly the past 18 months), or
- Earned at least \$8,300 during the base year.

Continued on page 2

continued from page 1

You must also be:

- Able to work (even if unable to work in the previous job, you must still be able to perform some work);
- Available for work; and
- Actively seeking work (making at least three job contacts per week).

I'm eligible. What is the next step?

If you are found to be eligible, the New Jersey Department of Labor will review the reasons you left your job. Then they will determine whether you should be disqualified. The disqualification could be for as little as four weeks or could be a complete disqualification. Complete disqualifications remain in effect until you find a new job and meet the eligibility requirements in your new job.

In their evaluation of the circumstances, the Department will place you into one of three categories:

1. *The job itself caused your disability.* If you leave work because of a disability caused by the work itself, you will be eligible for unemployment benefits if:

- You can prove that your employer did not have any other work that you could have performed within the limits of your disability; and
- You provide medical documentation that shows that you did (or still do) suffer from a health condition caused by the job.

2. *The job aggravated (but did not cause) your disability.* If you leave work because a medical condition was aggravated by the job, you will be eligible for unemployment benefits if:

- You can prove that your employer did not have any other work that you could have performed within the limits of your disability; and
- You provide medical documentation that shows that



Looking Out For Your Legal Rights®

About Looking Out

Looking Out For Your Legal Rights is published 10 times a year by Legal Services of New Jersey. If you are a Legal Services client, you can pick up a copy at your local Legal Services office. You may also read *Looking Out* on our website at www.lsnjlaw.org.

Subscriptions

Subscriptions are \$20 a year. For more information, please email publications@lsnj.org.

Back Issues

View back issues at www.lsnjlaw.org.

Change of Address

If you are moving, please send us your new address and a copy of your *Looking Out* mailing label.

Comments

If you have any suggestions or comments about *Looking Out*, we would like to hear from you. Please send all correspondence to:

Editor, *Looking Out*
Legal Services of New Jersey
P.O. Box 1357
Edison, NJ 08818-1357
publications@lsnj.org

This newsletter is for general information only. If you have a legal problem, you should see a lawyer.

A portion of the cost of this publication was supported by funds provided by the IOLTA Fund of the Bar of New Jersey.

© 2015 Legal Services of New Jersey

Looking Out For Your Legal Rights is a federally registered trademark of Legal Services of New Jersey.

you did (or still do) suffer from a health condition that was made worse by the job.

3. The job did not cause or aggravate your disability. If you can no longer perform your job because of a disability that is neither caused nor worsened by the job, you will generally not qualify for unemployment benefits. If there is no connection between the job and your condition, it will be as if you left work voluntarily without “good cause” for leaving. A worker in this situation will not get any unemployment benefits, but may be able to get Temporary Disability Insurance.

Note: If you did not quit, but were terminated for missing too much work (due to your illness or disability), and you made reasonable efforts to keep your job—such as calling your employer with regular updates about your condition or requesting a leave of absence—you should qualify for benefits. In all situations, you will need to provide medical documentation of your medical condition(s).

Preparing to Leave Work With “Medical Good Cause”

Communicate with your employer

If you have a health condition that was caused or aggravated by the work and you are having a hard time performing your job, let your employer know. If special accommodations, such as changing your shift or restricting lifting or standing, would enable you to keep working, ask your employer for those accommodations. You should provide your employer with a doctor’s note explaining that you need a certain accom-



If your health condition was caused or aggravated by work and you are having a hard time performing your job, let your employer know.

modation due to your disability. You don’t have to give extensive medical records to your employer, but you should be prepared to offer a brief doctor’s note explaining the need for an accommodation. The employer does not have to grant your request for a “reasonable accommodation” (a term from the federal Americans with Disabilities Act) if doing so will be a significant burden. But your employer must at least discuss with you the possibility of one or more reasonable accommodations. More information on disability-specific job accommodations can be found on the Job Accommodation Network’s website at www.askjan.org.

If you are not given an accommodation, ask your employer if there are any other positions available that you could do, given the limits of your disability. In some cases, it may seem obvious that there is no other suitable work available, but it’s a good idea to make the request anyway. If you leave work due to a medical condition and want to receive unemployment benefits, you will need to prove that there was no other work you could have performed there.



It is important to communicate with your doctor to discuss your ability to work. Only a medical professional can certify that you are unable to work.

Communicate with your doctor

You are in the best position to know whether or not you are able to work. However, for the purposes of unemployment or Temporary Disability Insurance, only a medical professional can certify that you are unable to work. For this reason, it is important to communicate with your doctor and to discuss with him or her your ability to work. If you and your doctor determine that you are no longer able to work because of a disability caused or aggravated by the job, ask your doctor to write a note explaining how your job caused or aggravated your medical condition. In the note, your doctor should also recommend that you leave the job.

A medical professional's note explaining that you need to leave work for medical reasons is best. If you can't get a

note, gather as much medical documentation as possible to support your case. The documentation should show a connection between your medical condition and your work. For example, if you suffer from a chronic back condition that is aggravated by heavy lifting on the job, you should get medical documentation that shows your condition is worsened when you lift heavy objects or put significant pressure on your back. Medical documentation dated shortly before your resignation is ideal.

What if I can't get a letter from my doctor?

If you are not able to get a doctor's note before you resign, try to get a note as soon after your resignation as possible. Even if you see your doctor after you leave work, the doctor may still be able to write a note based on previous documentation and his/her assessment stating that you had to leave work due to a medical condition. Finally, be aware that all unemployment determinations are fact-specific. Even if you are not able to get the ideal medical documentation, you might still qualify for benefits if the facts support your case. These tips simply aim to make the process easier. □

By Sarah Hymowitz, Chief Attorney, Legal Services of New Jersey Workers Legal Rights Project

LSNJ on YouTube, Facebook, and Twitter

Legal Services of New Jersey's YouTube channel features client stories about legal disputes and how LSNJ has helped, self-help videos in many languages that explain the law and actions you can take, and information on closing the justice gap.

www.youtube.com/user/LegalServicesNJ

You may also connect with LSNJ on Facebook and Twitter for updates on legal developments and new resources available on our websites.



Like us on **Facebook**
Follow us on **Twitter**



Hágase fan nuestro en **Facebook**
Síguenos en **Twitter**

HOUSING LAW: Understanding Your Security Deposit

MOST AGREEMENTS to rent housing, or leases, require you to pay the first month's rent before you move in. Most leases also require you to pay a security deposit. The New Jersey security deposit law, the Rent Security Deposit Act, specifies how a landlord must collect, maintain, and return a security deposit. **Cite:** N.J.S.A. 46:8-19*. Under this law, a security deposit is money that belongs to the tenant but is held by the landlord in trust. A security deposit is made to protect the landlord against the tenant's failure to follow his or her responsibilities as stated in the lease. This includes nonpayment of rent, or damage done to the apartment by the tenant, other than ordinary wear and tear. Read your lease carefully before you sign it. The lease should state clearly where the landlord will hold your security deposit and under what conditions it will be returned to you when you move out. The security deposit law says that a landlord can't take any money from the tenant's security—for repairs, rent due, or anything else—while the tenant still lives in the apartment or house.

The Rent Security Deposit Act applies to all rental units, including tenant-occupied, single-family homes. The

only exception is for rental units in owner-occupied buildings that have no more than two units other than the owner-landlord's unit. However, the law does apply even to tenants in these small, owner-occupied buildings if the tenant sends a 30-day written notice to the landlord stating that he or she wants the landlord to comply with the law's provisions.

Limit on amount of deposit

The most a landlord can collect as a security deposit is one and one-half times the monthly rent. **Cite:** N.J.S.A. 46:8-21.2. There are no exceptions to this limit. Sometimes a landlord will try to collect more security money from a tenant at the time the landlord raises the tenant's rent, in order to have the security keep pace with the rent increase. The law now says that the most additional security money that a landlord can get in any one year is 10 percent of the current deposit. **Cite:** N.J.S.A. 46:8-21.2.



Ask for a receipt when you pay the security deposit. The receipt should include the date, the landlord's signature, and the amount of the security deposit paid.

This article uses the word **Cite:** followed by numbers, letters, and names to refer to laws. A cite tells you the book in which the law is located. You can then read the law yourself by finding the cited book. For information about citations, and how to get more information about a particular law, see the Landlord-Tenant section of our website, www.lsnjlaw.org.



The landlord must tell you in writing the name and address of the bank where the deposit is being kept, the amount of the deposit, the type of account, and the current interest rate for that account.

Ask for a receipt when you pay the security deposit. The receipt should include the date, the landlord's signature, and the amount of the security deposit paid. The receipt should show that this money is for a security deposit. Also, make sure that your written lease states that you have paid a security deposit and includes the amount of the deposit.

Notice of security deposit

The Rent Security Deposit Act requires the landlord to put your security deposit in a separate bank account that pays interest. The landlord must tell you in writing the name and address of the bank where the deposit is being kept, the amount of the deposit, the type of account, and the current interest rate for that account.

The security deposit law says that this notice has to be given to the tenant in writing within 30 days after the tenant gives the deposit to the landlord. The law says that the landlord must also give the notice not just within 30 days of getting it from the tenant, but every year at the time the landlord pays the interest to

the tenant. And a new landlord must also give the notice within 30 days of buying the property. The notice must be given to the tenant within 30 days after the landlord has moved the deposit from one bank to another, or from one bank account to another (unless the change in the bank or account takes place less than two months before the annual interest payment). Finally, the law required all landlords to give their tenants a new notice—telling them where the deposit is, how much it is, and how much interest it is earning—by the end of January 2004. **Cite:** N.J.S.A. 46:8-19(c).

Your right to use the security deposit as rent

The law also says that if the landlord does not put the security money in a proper bank account, or does not give a proper written notice to the tenant every time the law says he or she has to, *then the tenant can give a written notice to the landlord telling the landlord to use the whole deposit (plus seven percent interest per year) to pay the tenant's rent.* (But be sure to read the next paragraph, which talks about a special situation.) This notice should be sent to the landlord by certified mail, return receipt requested, and you should keep a copy. The money can be used to pay future rent or any back rent the tenant owes. Once a tenant legally tells the landlord to use the security deposit as rent, the landlord can't ask the tenant for another deposit as long as the tenant lives in the apartment or house. **Cite:** N.J.S.A. 46:8-19(c); *Delmat v. Kahn*, 147 N.J. Super. 293 (App. Div. 1977).

Note: There are two exceptions to the rights described in the paragraph above.

Whichever type of account your security deposit is in, all of the interest earned on it is yours.

- If a landlord does not obey the law that says he or she must pay the interest on the security deposit every year (or if the landlord does not use the interest to pay part of the tenant's rent), or
- If the landlord does not give a notice about the deposit to the tenant every year, the tenant can use the deposit to pay past or future rent due. But before the tenant can do this, the tenant must give or send the landlord a letter giving the landlord 30 days to pay the interest or give the annual notice. (This notice should also be sent by certified mail, return receipt requested, and you should keep a copy.) **Cite:** N.J.S.A. 46:8-19(c).

There are two other important points about the notice of security deposit:

- If you have a written lease, read it carefully. Landlords will often put the name and address of the bank where your security is deposited, along with the other information required by law, right in the lease. This is sufficient notice under the law.
- Even if the landlord sends you the notice within 30 days, the landlord still violates the law if the notice is not true. If you receive the notice, call the bank to find out if the money has been deposited. If the money was not deposited, you can tell the landlord in writing to use

the security deposit to pay your rent just the same as if the landlord had not sent you a notice at all. **Cite:** *Princeton Hill Associates v. Lynch*, 241 N.J. Super. 363 (App. Div. 1990).

Interest on your security deposit

The Rent Security Deposit Act requires landlords who rent 10 or more apartments to place tenants' security deposits in either an insured money market fund or a federally insured bank account. The account must pay a rate of interest set at least quarterly and equal to the average rate of interest paid by the bank on money market accounts.

These higher interest accounts must be in New Jersey-based institutions. **Cite:** N.J.S.A. 46:8-19(a).

The law requires landlords who rent fewer than 10 apartments to place security deposits in bank accounts that pay at least the regular rate of interest. **Cite:** N.J.S.A. 46:8-19(b).

Whichever type of account your security deposit is in, all of the interest earned on it is yours. The law no longer allows the landlord to keep any amount to cover his or her administrative expenses. **Cite:** N.J.S.A. 46:8-19(a).

The law requires that the interest earned on the deposit must either be paid to you in cash every year or subtracted from the amount of rent you owe on the renewal or the anniversary of the lease. This must be done either when your lease is to be renewed or on January

31 each year. (The landlord must give you a written notice that he or she will be paying you on January 31 of each year instead of the date your lease is renewed.) **Cite:** N.J.S.A. 46:8-19(c).

Getting your security deposit back

The Rent Security Deposit Act states what a landlord must do with your security deposit when you move out, even if you move out before your lease is over. Within 30 days after you move out, the landlord must return your security deposit and interest, less any rent you owe or any charges for repairing damage that you have done to the property. If the landlord deducts any amounts for damages or rent, he or she must give you a complete list of the damages he or she claims you did to the property and the cost of repairs. The landlord must send you the list of damages by registered or certified mail, and the landlord must return to you any money left over from your security deposit. **Cite:** N.J.S.A. 46:8-21.1.

The landlord can only charge you for property damage that is more than ordinary wear and tear. Ordinary wear and



Landlords cannot charge cleaning fees to tenants who leave their apartments broom clean. Landlords often try to deduct such fees, as well as fees for painting.

tear means damage that takes place from the normal, careful use of the property. Examples of normal wear and tear are faded paint on the walls, loose tile in the bathroom, window cracks caused by winter weather, or leaky faucets or radiators. Examples of damages that might not be ordinary wear and tear are large holes in the walls caused by nailing up decorations, cigarette burns on floors, or a broken mirror on the bathroom cabinet.

Landlords cannot charge cleaning fees to tenants who leave their apartments broom clean. Landlords often try to deduct such fees, as well as fees for painting.

There are steps you can take to prevent a landlord from charging you for ordinary wear and tear, cleaning, or painting. Before you move out, ask the landlord or superintendent to personally inspect the apartment. Then ask that person to sign a note stating that you left the apartment clean and undamaged. If you cannot get the landlord or superintendent to inspect the unit, have a friend do so. Ask your friend to take photographs, and sign and date them. If you have a friend do this, make sure the friend can go to court with you if necessary. If you end up in court, the judge will not accept a letter from your friend as evidence.

Going to court to get back your security deposit

If, after 30 days, the landlord has not returned your security deposit, you can file a complaint against the landlord in Small Claims Court. The Rent Security Deposit Act states that if the court finds that a landlord wrongfully refused to

return all or part of a tenant's security deposit, the court must order the landlord to pay the tenant double the amount of the security deposit if it is not returned at all, or double the amount that the landlord wrongfully deducted from the deposit.

When you file your Small Claims Court complaint, make sure you ask for double the amount of the deposit. (Note: Even if you forget to ask for double the amount of money when you fill out your complaint, the court still must give you double because the law requires it.) **Cite:** N.J.S.A. 46:8-21.1; *Gibson v. 1013 North Broad Assoc.*, 172 N.J. Super. 191 (App. Div. 1980); *Hale v. Farrakhan*, 390 N.J. Super. 335 (App. Div. 2007). If some of the deposit was returned, be sure to ask for double the amount that you feel the landlord should not have deducted from your deposit. **Cite:** *Cottle v. Butler*, 257 N.J. Super. 401 (Law Div. 1992). If you go to Small Claims Court, also write on the complaint the words "together with interest and costs of the suit." This means that you will get the interest and the money that it costs you to file the complaint (\$20 plus mileage). The court should also award you reasonable attorney's fees if you hired an attorney.

Note: You can sue for up to \$5,000 in Small Claims Court and you can sue in the Special Civil Part where different rules apply. If your landlord owes you more than \$5,000, you can still sue in Small Claims Court if you are willing to give up anything over \$5,000. **Cite:** P.L. 2003, c.188 (section 6).

Also note: If your security deposit was provided by the Board of Social Services or some other government agency, and



When your building is sold, the new owner must get the tenants' security deposits, plus interest, from the old owner. The new owner is responsible to each tenant for the full amount of the tenant's deposit, plus interest.

the landlord is wrongfully trying to keep it, the law says that the landlord not only has to give the deposit back to you, but he or she may also have to pay the agency a penalty of between \$500 and \$2,000. The law says the Attorney General, the Department of Community Affairs, or some other state agency can sue to help you get your deposit back and to collect the penalty. **Cite:** N.J.S.A. 46:8-21.1; P.L. 2007, c. 9.

When your building is sold

If your apartment building or rented house is sold, the law makes it clear that the new owner must get the tenants' security deposits, plus interest, from the old owner. The law plainly states that the new owner is responsible to each tenant for the full amount of the tenant's deposit, plus interest, whether or not the new owner actually got the deposits from the old owner. **Cite:** N.J.S.A. 46:8-20 and 21.

What if you are displaced?

If you are forced to move because of fire, flood, condemnation, or evacuation, the landlord must return your



If you are forced to move because of fire, flood, condemnation, or evacuation, the landlord must return your security deposit plus your portion of the interest earned on it within five days.

security deposit plus your portion of the interest earned on it within five days. Before returning your money, the landlord may deduct any charges you owe under the lease agreement. This includes any rent you owed when you were displaced. The security deposit must be made available to you during normal business hours for 30 days, in the city in which the property is located. With the money, the landlord must give you a detailed statement of interest earned by the deposit and a list of any deductions. If the municipal clerk agrees, the landlord can turn your money over to the clerk. The city clerk must then make it available to you.

Within three business days after the owner is notified of the displacement,

the owner must give you written notice by personal delivery or by mail to your last known address, stating where and when your security deposit will be available. The owner must send a duplicate notice to the relocation officer, if the city has one, or to the city clerk. When your last known address is that from which you were displaced, and the mailbox at that address is no longer usable, the owner must also post such notice at each outside entrance of that property. If you do not ask for the money within 30 days, the owner must redeposit it in an interest-bearing account in the same bank from which it was withdrawn.

If you move back into the same property later, you must immediately return to the landlord one-third of the security deposit. You must return another third within 30 days and the last third within 60 days from the date you moved back in. If you do not repay the security deposit, the owner may bring an eviction action against you for nonpayment of rent. **Cite:** N.J.S.A. 46:8-21.1.

www.lsnjlaw.org

For more information about your rights and responsibilities as a tenant, go to the landlord-tenant section of our website, www.lsnjlaw.org.

LSNJLAWSM, Legal Services of New Jersey's Statewide, Toll-Free Legal Hotline



Scan with your mobile phone to apply online.

If your income is low and you need help with a civil legal problem, call LSNJLAWSM, Legal Services of New Jersey's statewide, toll-free legal hotline, at 1-888-LSNJ-LAW (1-888-576-5529). You may also apply online at www.lsnjlawhotline.org. Hotline hours are Monday through Friday, 8 a.m. to 5:30 p.m. If you are not eligible for assistance from Legal Services, the hotline will refer you to other possible resources.

Clearing Your Record Online: Expunge Your Criminal Record Online

LEGAL SERVICES of New Jersey recently introduced Clearing Your Record Online (CYRO). CYRO can help you find out whether you are eligible to expunge your criminal record. It also allows you to create forms to submit to the court, view instructional videos, and find other resources to help you with expungement.

The CYRO interactive interviews are not currently supported by mobile devices, such as phones and tablets. In order to complete the interview, you will need to use a desktop or laptop computer. If you do not have access to a desktop or laptop computer, you may still find other helpful resources that are mobile-friendly, such as instructional videos, forms, and the *Clearing Your Record* manual.

The CYRO eligibility interview can only help with expungement of New Jersey criminal records, not out-of-state criminal records.


A judge in the Superior Court in the county where you were arrested or convicted will decide whether to approve your request for expungement. CYRO will tell you if you may be eligible to expunge and help you fill out the forms, but only a judge can decide whether or not to grant your request.

If you decide to apply for expungement after completing the CYRO eligibility interview, you will need your entire adult and juvenile record in New Jersey, including the date of arrest, the statute number of the offense, the date you were convicted or pled guilty, the disposition of your case, and the status of any penalties imposed on you at sentencing, to complete the actual forms. The website provides information on how to get your entire New Jersey criminal record from the state police.

Once you are ready, you can click on a link to answer some questions about your record. It should take between 10 and 20 minutes, depending on your record. When you

are finished, you will know if your record is expungeable, and whether there is a waiting period before you can apply. If you can apply right away, you will be able to go directly to the forms to complete them online. You cannot submit them online though. You will need to print and mail them.

Contact LSNJLAWSM for more help

If your income is low and you need additional help, you may apply online for help from Legal Services of New Jersey at www.lsnjlawhotline.org. 



Cuáles Son Sus Derechos Legales

Diciembre 2015

Publicado por Los Servicios Legales de Nueva Jersey

Las personas que dejan sus empleos por su propia elección, generalmente, quedan descalificadas para recibir los subsidios por desempleo. Pero existen varias excepciones que le permiten a un trabajador renunciar y aún recibir dichas prestaciones.

Flip issue over for the English edition of *Looking Out for Your Legal Rights*.

¿Puede obtener los subsidios por desempleo si renuncia por razones médicas?

LAS PERSONAS que dejan sus empleos por su propia elección, generalmente, quedan descalificadas para recibir los subsidios por desempleo. Pero existen varias excepciones que le permiten a un trabajador renunciar y aún recibir dichas prestaciones. Por ejemplo:

- Si usted renunció debido a que una discapacidad física o mental le hacía difícil o imposible llevar a cabo su trabajo, usted tal vez pueda recibir las prestaciones.

continúa en la página 2

El boletín de educación jurídica para los habitantes de Nueva Jersey

continúa de la página 1

- Si usted renunció debido a una enfermedad o lesión, y cumple ciertos requisitos, usted podría recibirlos.

Este artículo explica los pasos que todo trabajador puede tomar para obtener los subsidios por desempleo cuando una condición médica le hace necesario abandonar su empleo.

Para obtener los subsidios, todo trabajador tiene que ser “elegible” y “no estar descalificado”

¿Cómo sé si cumpla con los requisitos?

Para ser elegible, usted tiene que:

- Haber trabajado por lo menos 20 semanas (ganar por lo menos 167 dólares por semana) durante el año base (aproximadamente los últimos 18

meses), o

- Haber ganado por lo menos 8.300 dólares durante el año base.

También tiene que:

- Poder trabajar (incluso si no pudo trabajar en el empleo anterior, usted todavía tiene que poder llevar a cabo algún tipo de trabajo);
- Estar disponible para trabajar; y
- Buscar activamente un empleo (hacer, al menos, tres contactos laborales por semana).

Cumplo los requisitos. ¿Cuál es el siguiente paso?

Si se determina que es elegible, el Departamento del Trabajo en Nueva Jersey examinará las razones por las que usted dejó su puesto. A continuación, se determinará si se le debería descalificar. La inhabilitación podría ser por sólo cuatro semanas o podría ser una descalificación



Cuales Son Sus Derechos Legales

Con respecto a *Looking Out*

Looking Out for Your Legal Rights® es publicada 10 veces al año por los Servicios Legales de Nueva Jersey. Si usted es un cliente de los Servicios Legales, puede obtener una copia en la oficina de Servicios Legales de su localidad. También puede leer *Looking Out* en nuestro sitio Web www.lsnj.org/espanol.

Suscripciones

La suscripción cuesta \$20 dólares por año.

Números atrasados

Puede ver números atrasados en www.lsnj.org/espanol.

Cambio de dirección

Si se muda, envíenos su nueva dirección y una copia de la etiqueta pegada al último ejemplar de *Looking Out*.

Comentarios

Si tiene alguna sugerencia o comentario con respecto a *Looking Out*, nos gustaría oírlo. Envíe toda correspondencia a:

Editor, *Looking Out*
 Legal Services of New Jersey
 P.O. Box 1357
 Edison, NJ 08818-1357
publicaciones@lsnj.org

Este boletín de noticias es sólo una información general. Si tiene un problema jurídico, usted debería ver a un abogado.

Una parte del costo de esta publicación se cubrió con la ayuda proporcionada por el fondo IOLTA del colegio de abogados de Nueva Jersey.

completa. Una descalificación completa permanecerá en efecto hasta que usted encuentre un nuevo empleo y cumpla con los requisitos de elegibilidad en su nuevo trabajo.

Durante la evaluación de las circunstancias, el departamento le ubicará en una de las tres siguientes categorías:

1. El trabajo en sí provocó la discapacidad del trabajador. Si deja de trabajar a causa de una discapacidad causada por el trabajo mismo, usted llenará los requisitos para recibir los subsidios si:

- Puede probar que su empleador no tenía ningún otro empleo que usted pudiera haber realizado dentro de los límites de su discapacidad; y
- Proporciona la documentación médica que muestra que usted sufrió o que aún sufre una enfermedad causada por el trabajo.

2. El trabajo empeoró (pero no causó) la discapacidad del trabajador. Si deja de trabajar debido a una afección médica que fue agravada por el trabajo, usted llenará los requisitos para recibir los subsidios si:

- Usted puede probar que su empleador no tenía ningún otro empleo que usted pudiera haber realizado dentro de los límites de su discapacidad; y
- Proporciona la documentación médica que muestra que usted sufrió o que aún sufre una enfermedad que empeoró por el trabajo.



Si usted tiene una afección médica que fue causada o empeorada por el trabajo y se le está haciendo difícil realizar su labor, infórmeselo a su empleador.

3. El trabajo no causó ni empeoró la discapacidad del trabajador. Si ya no puede realizar su trabajo a causa de una discapacidad que no fue ni causada ni agravada por el trabajo, generalmente quedará descalificado para recibir prestaciones por desempleo. Si no hay ninguna conexión entre el trabajo y su afección, será como si hubiera dejado el trabajo voluntariamente, sin tener una “buena razón” para irse. Un trabajador en esta situación no obtendrá subsidios por desempleo, pero podría obtener el seguro temporal por discapacidad. **Nota:** Si no renunció, pero fue despedido por faltar demasiado al trabajo (debido a su enfermedad o discapacidad), y usted había hecho esfuerzos razonables para mantener su empleo, como llamar a su patrón para darle actualizaciones periódicas acerca de su condición o para solicitar un permiso de ausencia, usted debería estar cumpliendo con los requisitos para recibir dichas prestaciones. En todo caso, usted tendrá que proporcionar documentación médica respecto a su situación.

La preparación para abandonar el empleo debido a una “razón médica justificada”

Comuníquese con su empleador

Si usted tiene una afección médica que fue causada o empeorada por el trabajo y se le está haciendo difícil realizar su labor, infórmesele a su empleador. Si el hacer adaptaciones especiales, como cambiar su turno o restringir el levantamiento de cosas pesadas o dejar de estar de pie, le permitiría seguir trabajando, pídale a su empleador para que haga dichos arreglos. Usted debe proporcionarle una nota del médico explicando que debido a su discapacidad usted necesita un acondicionamiento determinado. No tiene que darle extensos historiales médicos, pero debe estar preparado para entregarle una nota breve en la que el médico explica la necesidad de algún acondicionamiento. El empleador no tiene la obligación de concederle el pedido para una “adaptación razonable” (un término de la ley para la protección de los estadounidenses con discapacidades) si hacer tal cosa es una carga considerable para el mismo. Pero



Es importante que se comunique con su médico y hable con él o ella, sobre su habilidad para trabajar. Sólo un médico puede certificar que usted no puede trabajar.

su empleador tiene al menos que hablar con usted sobre la posibilidad de hacer una o más adaptaciones razonables. En el sitio web de la organización *Job Accommodation Network*, www.askjan.org, encontrará más información sobre las adaptaciones laborales específicas a cada discapacidad.

Si no se le brinda una adaptación, pregúntele a su empleador si hay algún otro puesto disponible que usted puede desempeñar, teniendo en cuenta las limitaciones presentadas por su discapacidad. En algunos casos, tal vez sea evidente que no hay ningún trabajo adecuado disponible, pero es buena idea preguntar de todos modos. Si abandona el empleo debido a una afección médica y desea recibir los subsidios por desempleo, tendrá que demostrar que allí no había ningún otro trabajo que hubiera podido hacer.

Comuníquese con su médico

Usted es quién sabe mejor que nadie si puede o no desempeñar un trabajo. No obstante, con el propósito de obtener el seguro temporal por desempleo o por discapacidad, sólo un médico puede certificar que usted no puede trabajar. Por esta razón, es importante que se comunique con su médico y hable con él o ella, sobre su habilidad para trabajar. Si usted y su médico determinan que usted ya no puede trabajar a causa de una discapacidad causada o empeorada por el trabajo, pídale al médico que le escriba una nota explicando en qué forma su trabajo le ha causado o agravado su afección. En la nota, el médico debe también recomendar que deje el empleo.

¿Qué pasa si no puedo obtener una carta expedida por mi médico?

Una nota de un profesional médico explicando que usted necesita dejar de trabajar por razones médicas es lo mejor. Si no puede conseguir una carta, reúna la mayor cantidad posible de documentos médicos que sustenten su caso. La documentación debe mostrar una conexión entre su condición médica y su trabajo. Por ejemplo, si sufre una afección crónica de la espalda que se agrava al levantar objetos pesados en el trabajo, usted debe conseguir documentación médica que muestre que su condición empeora cuando tiene que levantar objetos pesados o pone alguna presión considerable a su espalda. Sería ideal tener documentación médica fechada antes de su renuncia.

Si no logra obtener una carta de un doctor antes de renunciar, intente conseguirla tan pronto como le sea posible después de renunciar. Incluso si usted ve a su médico después de dejar de trabajar, el médico podría escribir una nota basada en la documentación anterior y su análisis indicando que usted tuvo que dejar de trabajar debido a un problema médico. Por último, tenga en cuenta que todas las determinaciones respecto al desempleo son específicas al hecho. Incluso si no logra obtener la documentación médica ideal, usted todavía podría tener derecho a recibir los subsidios si los hechos corroboran su caso. Estos consejos simplemente tienen el propósito de facilitar este proceso. □

Este artículo fue traducido del inglés por Al Moreno, M.A., coordinador del servicio lingüístico en LSNJ.

Borre sus antecedentes penales por medio de la Internet

Los Servicios Legales de Nueva Jersey recientemente lanzaron el sitio Cómo borrar los antecedentes penales por medio de la Internet (CYRO) para ayudarle a averiguar si usted llena los requisitos para borrar los antecedentes que tenga en Nueva Jersey. El sitio CYRO le permite llenar los formularios que tiene que presentar al tribunal, ver videos instructivos y encontrar otros recursos para ayudarle a hacer dicha corrección. En este momento, CYRO



sólo está disponible en inglés, pero esperamos tener la versión en español lista en febrero de 2016.

Si después de completar la entrevista para determinar la elegibilidad, usted decide solicitar que se le borre el historial, para completar los formularios, necesitará todos los antecedentes que tenga en Nueva Jersey como menor de edad y adulto, incluyendo la fecha de la detención, el número del estatuto de infracción, la fecha en la que se le condenó o se le declaró culpable, la disposición del caso, y el estado de cualquier sanción impuesta en la sentencia. En el sitio web de LSNJ, www.lsnjlaw.org, encontrará información sobre cómo pedirle a la policía estatal una copia de sus antecedentes penales completos.

Después de contestar algunas preguntas acerca de su historial, usted sabrá si este se puede borrar, y si hay algún período de espera antes de que pueda iniciar el proceso. Si usted puede iniciar inmediatamente, usted podrá ir a la Internet y llenar los formularios, imprimirlos y enviarlos por correo.

Pronto tendremos más información disponible acerca de la versión en español.