

# Separations (Quits and Discharges)

Presented by  
Unemployment Insurance Technical  
Subcommittee

## Section 1256

# California Unemployment Insurance Code

Provides that, “An individual is disqualified for unemployment benefits if the director finds that he or she left his or her most recent work voluntarily without **GOOD CAUSE** or that he or she has been discharged for **MISCONDUCT** connected with his or her most recent work.”

# **GOOD CAUSE**

## **Section 1256-3(b) ~ Title 22**

“A real, substantial, and compelling reason, that would cause a reasonable person genuinely desirous of retaining employment to leave work under the same circumstances.”

# MISCONDUCT

## Section 1256-30(b) ~ Title 22

Four key elements:

1. A material duty owed by the claimant to the employer under the contract of employment.
2. A substantial breach of that duty.
3. That the breach be a willful or wanton disregard of that duty.
4. That it evinces (proves) a “disregard of the employer’s interests” (i.e., tends to injure the employer).

# Voluntary Quits (VQ)

# Common Reasons for Quitting Work

- Quit to care for a family member.
- Quit to move.
- Quit for health reasons.
- Quit to follow a spouse to a new location.
- Quit to return to school.
- Quit due to transportation issues.
- Quit due to hostile work environment.
- Quit due to financial hardship.
- Quit due to a reduction in hours or wages.

# Common Reasons With Good Cause

- Compelling family reasons.
- Leave work to accompany spouse or registered domestic partner.
- Protection from domestic violence.
- Undue risk of injury or illness.
- Denied Equal Employment Opportunity (EEO).
- Sexual harassment.
- Breach of contract.

# Common Reasons Without Good Cause

- Job dissatisfaction.
- Resentment towards supervisor.
- Dissatisfaction with job, wages, hours, etc.
- In anticipation of termination.
- To return to school.

## CASE #1

Samantha moved out of the area to care for her elderly mother who lives 400 miles away. Her mother's health had deteriorated to where she could no longer be left unsupervised or live alone. Samantha quit her job to move in with her mother.

*Does Samantha have good cause for quitting her job?*

## CASE #2

Donna is a food service worker, working 3.5 hours per day. Her husband was discharged from the military and transferred back to Virginia. He told Donna that Virginia was where they were going to reside and look for work. Although neither one of them had a job lined up, Donna quit her employment.

*Does Donna have good cause for quitting her job?*

## CASE #3

Susan is a full-time instructional assistant and wants to improve her skills to become a teacher. She quit to return to school to strengthen her skills.

*Does Susan have good cause for quitting her job?*

## CASE #4

Sharon is a single parent and was an on-call employee working on a regular basis, earning approximately \$1,700 per month. Six months ago, she was made permanent part-time earning approximately \$1,300 per month, but with benefits. Sharon quit to move to Georgia to live with her sister, because she and her minor son couldn't meet living expenses in San Diego. She stated she was about \$500 short each month.

*Does Sharon have good cause for quitting her job?*

# Misconduct (MC)

# Common Reasons for a Discharge

- Attendance/punctuality.
- Violation of company rule or policy.
- Insubordination.
- Performance.
- Health reasons.
- Acts of dishonesty.
- Gross negligence.

# Moving Party

Sometimes it is hard to tell if the separation is a quit or a discharge. It depends on who is the moving party.

- If the employee left while continued work was available, he/she is the moving party.
- If the employer refused to permit the employee to continue working, they are the moving party.

## **CASE #5**

Sue was terminated for allowing her credentials to expire. Sue had ample time to take the required courses to renew the credentials, and successfully completed a number of required courses. However, she failed to pass some of the coursework and neglected to sign up for others. When asked, she said her financial situation impeded her from being able to take them all at the same time. Her supervisor knew there wouldn't be enough time to complete the requirements and terminated her employment.

*Was Sue discharged due to misconduct?*

## **CASE #6**

Roy was a landscaper who worked for the district for more than 16 years. On November 6, Roy was found using illegal drugs in the boiler room and was discharged from the district. Through his union, Roy appealed the district's decision and was allowed to quit for personal reasons.

*Is this a quit or a discharge?*

## CASE #7

Polly had a meeting with human resources and a union representative to discuss her poor teaching evaluations. Polly was notified that termination of her employment was going to be “recommended” but if she quit, she could protect her employment record for future referrals. Polly submitted her resignation but told the EDD she was fired when filing for Unemployment Insurance benefits. The district protested the claim stating she quit in anticipation of being discharged.

*Is this a quit or a discharge?*

## CASE #8

Jim worked as a math teacher at ABC Middle School. The principal felt Jim was doing very well, and gave him a satisfactory evaluation. A short time later, Jim applied for an opening at a high school near his home. When the principal denied his transfer, Jim sent the principal an email explaining his disagreement with the decision to deny his transfer request. The email was strongly worded and contained a few vulgarities. The principal considered the email to be offensive and fired Jim due to insubordination. Jim had never received any negative evaluations or warnings prior to this incident.

*Was Jim discharged due to misconduct?*

## CASE #9

George worked as a school custodian and had a notorious history for arriving late to work. He always contacted the front office to notify them if he was going to be more than 15 minutes late. His supervisor reminded him of his previous warnings regarding his overall attendance and the expectation that he report to work on time. One day, George notified the front office that he was going to be more than 30 minutes late because of a flat tire. When he arrived, he was terminated because of his poor attendance record.

*Was George discharged due to misconduct?*



The EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.