

## **Indiana Legal Services, Inc**

Using the law to fight poverty, empower clients, and improve access to justice.

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### **What happens at an Unemployment Insurance hearing?**

**I was denied my unemployment compensation, and I appealed. Now I have a hearing scheduled. Do I need to go to the hearing?**

If you want a chance at getting unemployment benefits, you must attend the hearing. If you were denied benefits when you first applied for unemployment and then you don't show up at your hearing, the appeal will be dismissed and you will not be able to try to get these benefits.

**What happens if the employer doesn't show up for the hearing?**

If the employer is the one who appealed, and the employer does not show up, the Administrative Law Judge (ALJ) should dismiss the appeal. If you are the one that appealed, and the employer does not show up, the ALJ will go on with the hearing.

If you go to the hearing and the employer does not show up, you should win your case. This is especially true if you were fired from your job, because it is the employer's responsibility to prove you were fired for "just cause." If the employer isn't there, the employer cannot prove you were fired for just cause and you should win. If you quit your job, you have to prove you had good, work-related reasons for quitting. If your employer doesn't show up, you will probably still have to explain to the (ALJ) that you had good, work-related reasons for quitting.

Even if your employer does show up, you can still win. Both sides will present their sides of the case, and the ALJ will make a decision.

**I am getting unemployment benefits, but my employer appealed. Now there is a hearing scheduled. Do I have to go to the hearing?**

YES! If you don't go to the hearing, the employer will most likely win the appeal. You will then stop getting unemployment compensation benefits, and you can even be asked to repay the benefits you already received.

**Do I need a lawyer for the hearing?**

You don't have to have a lawyer, but it would be very helpful if you did have one. If you are unable to hire an attorney, you can contact your local legal services providers to ask for legal

help at the hearing. You should do this immediately; don't wait until the hearing is almost here.

### **What happens at the hearing?**

The hearing will be recorded, but it will be informal. You and the employer and the Administrative Law Judge (ALJ) will sit at a table (usually at the unemployment office). The ALJ will usually tell you both some things about how the hearing will proceed, and will ask some questions. Then you and the employer will present your sides of the matter. If you were fired, the employer will have the burden of proving you were fired for "just cause." If you quit, you will have to prove you had good, work-related reasons for quitting.

Generally, the employer will go first, and will provide testimony and evidence about your employment. (Note, however, that different ALJ's have different styles). You will then have the opportunity to "cross-examine" the employer and its witnesses--you can ask questions about that testimony. When the employer is done, you will have the opportunity to explain your side. You can present any witnesses and evidence that you have. When you are done presenting your evidence and testimony, the employer can ask questions of you and your witnesses. The ALJ can ask any of the parties or witnesses questions. After the hearing is over, the judge will issue a written decision.

### **What if I want some of my co-workers to testify for me, but they don't want to testify against the employer?**

You can ask the ALJ to subpoena witnesses that you believe are necessary to prove your case. Then the co-workers will be ordered to appear at the hearing. You need to contact the ALJ and ask for the subpoenas as soon as possible, well BEFORE the hearing. Make sure you are asking the ALJ to subpoena witnesses that you are quite sure will help your case. You should ask the ALJ to subpoena only witnesses that are necessary to your case.

### **I received notice of my ALJ hearing, but I can't be there on that date. What do I do?**

You can ask the ALJ to continue the hearing. You should do this immediately. You must ask for a continuance at least 3 days before the scheduled hearing. If you don't, the ALJ probably won't continue the hearing (unless there is an emergency). You generally must ask the ALJ in writing at least 3 days before the hearing if you want the hearing to be continued.

### **I missed my unemployment hearing, and I just got notice that my case was dismissed. Is there anything I can do?**

You can ask the ALJ to reinstate your case. You have 7 days from the mailing date of the ALJ's notice of the decision to apply for reinstatement. You need to do this in writing to the ALJ that has been handling the case. You will need to show that you had good cause for missing the hearing. You can ask for reinstatement of the case only once.

### **What happens if the ALJ rules against me?**

You can appeal the ALJ's decision to the Review Board. If the ALJ rules for you, the employer

can appeal to the Review Board. There are strict deadlines for appealing to the Review Board. The ALJ's decision should explain the deadline to appeal to the Review Board.

You do not get another hearing at the Review Board level; the Review Board just looks over what happened at the ALJ hearing. The Review Board can allow either side to present new evidence, but you have to explain why the evidence wasn't presented at the ALJ hearing. The Review Board does not allow new evidence very often.

### **What happens after the Review Board makes a decision?**

The losing party can appeal to the Indiana Court of Appeals. Again, there is not another hearing. The Court of Appeals reviews what happened at the ALJ hearing and the Review Board's decision. There are also strict deadlines for appealing to the Indiana Court of Appeals. It is very difficult to appeal a case to the Indiana Court of Appeals. You should talk with an attorney if you think you have a good case for appeal.

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