

What can fired employees do about lying owners?

I worked for 22 years at an assisted-living facility on Long Island. I developed many close relationships with my fellow employees, with residents, even with residents' families. Then the facility was taken over by new owners.

A few months ago, a new administrator told me my salary was to be cut by almost 50 percent. Then, about six weeks ago, she called me into her office and told me I was fired. For the first time, I had to apply for unemployment compensation. I received it for two weeks and then was told the payments were stopping because my former employer said I had quit. Nothing could be further from the truth; even after the salary cut, I intended to stay. I know there will be a hearing about this - but what if they continue to lie?

W.R., via e-mail

Not to worry. You have a stronger case than you realize.

Let's start by reviewing the basics about unemployment insurance - unfortunately, a timely subject for many.

This state-provided coverage pays temporary weekly income to eligible workers who have lost their jobs through no fault of their own, and are actively looking for work. How much you get, and for how long, depends on state law. In New York, the maximum benefit is \$405 a week.

(You may get much less, however, depending on what you earned in your last job.)

Normally, New York benefits are payable for up to 26 weeks. But the federal government helps to underwrite a benefits extension during severe economic downturns. On July 2, New York took advantage of federal assistance to extend benefits for an additional 13 weeks.

Your weekly unemployment check isn't paid directly by your former employer. The money comes from a tax that's levied on all New York employers. Their tax rate depends on the size of their payrolls, and on how many of their workers have collected benefits. (After a series of layoffs, a company's tax rate is likely to rise, for example.)

When a worker files a claim, his former employer has an opportunity to contest it - and yours did. The next step is a hearing at which an administrative law judge listens to both sides and decides who's right.

In your case, it sounds as if you'd be entitled to unemployment benefits even if you had quit your job, says Kevin Mintzer, a labor lawyer who is a partner at Vladeck, Waldman, Elias & Engelhard in Manhattan.

True, a worker who quits is ineligible to collect unemployment benefits. But a "coerced resignation" - i.e., being forced to quit - is a different matter.

"You are entitled to benefits if you quit because your employer did something that was tantamount to firing you," Mintzer said. "To most people, cutting your salary by 50 percent would fit that description."

Bring all relevant paperwork (including copies of e-mails) to the hearing. For expert advice, consider enlisting the Unemployment Action Center - a nonprofit organization dedicated to providing free legal representation year-round in New York City and on Long Island to people who've been denied unemployment insurance.

The UAC trains volunteer advocates - law school students from Brooklyn Law School, Cardozo, Columbia, Fordham, Hofstra, New York Law School, and New York University - to represent workers at Department of Labor hearings. For more information, go to uac-ny.org or call 212-998-6568.

Mintzer, himself a former UAC volunteer advocate, doesn't think you should be too anxious about the fact that your former employer has already lied.

"In my experience, employers who tell an initial lie don't find it so easy to continue lying when they're under oath in front of an administrative law judge," he said.