

# Business Law

# ALERT

## Can an at-will-employer terminate an employee without notice?

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The short answer is yes, an employer can terminate for almost any reason or for no reason at all. But, that does not mean that the game is over for the terminated employee; in fact, the fun times are just starting.

The problem with not documenting the reason for termination is the employer leaves himself/herself open to a discrimination lawsuit. Even though we are an "at-will" country, employers cannot fire for improper reasons such as race, gender, national origin, disability, etc. And some mental illnesses are protected by federal law requiring the employer to make reasonable accommodations. (Behavioral problems are sometimes caused by mental illnesses.) If the employer does not document the reasons for firing, then an employee could easily prove that the termination was improper. Imagine trying to prove that you did not fire the employee because she is Asian when you do not have any records documenting her insubordination.

In addition, in Pennsylvania, an employee terminated through no fault of his or her own, is entitled to unemployment compensation (UC) benefits. If that employee is granted benefits, the employer's contribution rate will increase to reimburse the state's unemployment compensation fund. An employer can avoid paying this increased rate, if he/she can demonstrate that the employee's own failure caused his/her job termination. Wouldn't it be a slap in your face, if you fired an employee for failing to appear at work, then turn around and have to pay that employee's UC benefits?

Another problem with undocumented termination is worker's compensation. If the employee can demonstrate that his/her physical or mental problems were caused by the job duties, the employee could have a claim for worker's compensation. By Pennsylvania law, employers must carry worker's compensation insurance or face serious financial penalties.

So, yes, when an employer terminates an employee and fails to keep records about the reason for termination, that terminated employee has many options.

Even if the employee brings a lawsuit and ultimately loses, (or files UC and Worker's Compensation claims and loses) the employer will nevertheless spend thousands of dollars merely defending the company. That is a headache most businesses cannot afford. A little record-keeping could save time and money.

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### About the Author:

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