

What is Job Retaliation?

Intro

Most jobs in Washington State are “at will.” Your employer usually can fire you at will, for any or no reason. There are exceptions to this. The employer may not fire you in retaliation (revenge) for exercising your legal rights as an employee.

What is retaliation?

Your employer retaliates when it takes action against you because you

- exercised a legal right
- complained about discrimination against you or a co-worker

Example 1: you make a complaint about sexual harassment. Your employer fires you for making the complaint.

Example 2: you ask for reasonable accommodation of your disability. Your employer demotes you as a result.

What are other examples of exercising legal rights that could lead to the employer retaliating?

- complaining about unsafe working conditions
- complaining about not getting minimum wage or overtime
- filing for workers' compensation
- complaining to DSHS about abuse or neglect of patients in a health care facility
- engaging in union activities

- doing something to try to improve pay or conditions for workers at your job

In all these examples, there is a law against firing and other action against you short of firing. **Examples:** suspension or demotion.

There is no specific anti-retaliation law in my situation. Does that matter?

Yes. You can only sue your employer if they fired you. It is illegal to fire you for a reason that goes against a public policy clearly expressed in state law.

Example: it is illegal to fire an employee for “whistleblowing.” That is reporting when your employer violates environmental, business or health laws. If your employer fires you for this, you can sue for “wrongful discharge in violation of public policy.”

We got together to ask for better working conditions. We did not join a union. The employer fired us. Is this retaliation?

It could be. Workers have the right to come together to ask the employer to improve conditions without being retaliated against.

Example: Six women work together, sewing sleeves on jackets. The room they work in is dark. They have trouble seeing their work. They ask the manager to make the lighting system brighter. Shortly after that, the employer fires them.

The employer told me their reason for taking action against me. I think the real reason is unlawful retaliation. Could I win if I sue?

Maybe, if you can show retaliation was a big factor in why the employer acted against you.

Example: Susan was hurt on the job. She filed a workers' compensation claim. Soon after that, her employer fired her. The employer claims it was for some other reason. Susan thinks it was because she filed for workers' compensation. She should ask herself:

- What has happened to other injured workers in the same situation?

Example: Other people hurt on the job were fired soon after their injury.

- Did the employer fire her for something that other workers routinely get away with?
- Did the employer violate its own rule?
Example: The employer has a rule that they will fire you only after you have gotten three written warnings. They fired Susan without any warning.

❖ **Written statement of reasons the employer fired you:** Under state law, you have a right to a signed, written statement saying why they fired you. Your employer must give it to you within ten working days of getting your written request.

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