



Employment Rights

Can I be fired for leaving work during an emergency evacuation? Not if it is an official order of evacuation. Texas law says an employer may not discharge or discriminate against an employee who leaves work to participate in a general public evacuation ordered under an Emergency Evacuation Order. The order must be an official statement by the state government or a political subdivision recommending the evacuation of an area stricken or threatened with a disaster, which includes a declaration of local disaster. If there is no official local, state, or federal disaster declaration, your absence can be considered as personal leave, unauthorized leave, or might even be grounds for termination, depending on your employer's policies. Don't assume that you can leave work or not report to work unless there's an official evacuation order.

How do I get my final paycheck? Contact your employer immediately to let them know where to send your final paycheck. If you quit, you are entitled to be paid your wages in full by the next regular payday. If you were fired, you are entitled to your full paycheck within six days. "Final pay" includes regular wages, fringe benefits payable under a written policy, and any other component of the pay. Read your employment manual or contract. For wage complaints, call the Texas Workforce Commission at 800-832-9243.

Can I get unemployment compensation? Unemployment compensation provides temporary financial assistance to workers who are unemployed through no fault of their own. If you were fired (terminated "for cause"), you are not eligible for unemployment. You do have the right to challenge your employer's version if you believe you were discharged for other reasons, such as participation in evacuation or layoff related to the disaster. Unemployment benefits are based on your past employment, not on the basis of need. You must be also be able to work and actively seeking employment, although these requirements might be suspended in disaster situations. If you are temporarily laid off and have a definite return-to-work date, work search requirements may be waived. File for unemployment benefits online at www.twc.state.tx.us/jobseekers/unemployment-benefits-services

Can I get disaster unemployment assistance? DUA is a federally funded program that provides financial help for up to 26 weeks for those who become unemployed as a direct result of a federally declared disaster. DUA covers the employed, self-employed, owners and workers of farms and ranches, and others not normally covered by state unemployment. Apply at www.twc.state.tx.us/jobseekers/disaster-unemployment-assistance. You'll need your social security number, proof of wages, proof of employment, and name and address of your last employer. If self-employed, you must provide tax returns and other proof of self-employment. You have the right to appeal the denial of DUA benefits.

OTHER EMPLOYMENT ISSUES:

- **Family and Medical Leave Act (FMLA)** Employees affected by a natural disaster are entitled to leave under the FMLA for a serious health condition caused by the disaster. Employees affected by a natural disaster who must care for a child, spouse, or parent with a serious health condition may also be entitled to leave under the FMLA.
- **Americans with Disabilities Act (ADA)** Employees who are physically or emotionally injured as the result of a catastrophe may be entitled to reasonable accommodation by the employer as long as it would not place undue hardship on the operation of the employer's business.
- **Occupational Safety and Health Act (OSHA) and National Labor Relations Act (NLRA)** OSHA and the NLRA both give employees the right to refuse to work in conditions they believe are unsafe. Employees must have a reasonable, good-faith belief that working would be unsafe, but the law protects them even if they're honestly mistaken about the danger. **OSHA** ensures workplace safety, and applies to employers with one or more employees. OSHA makes employers responsible to protect employees from unreasonable danger in the workplace, including safety issues caused by disasters, such as asking employees to come into work during adverse weather, the potential for auto accidents, slips and falls, flying objects, and exhaustion from working extended shifts. **NLRA**- For both union and nonunion employees, refusing to work because of safety concerns can be a concerted activity that is protected by the NLRA. Concerted activity usually involves more than one employee, but it can consist of one employee acting on a matter that affects other workers.

- **Uniformed Services Employment and Reemployment Rights Act (USERRA).** USERRA prohibits discharging or denying any benefit of employment because of an employee's uniformed service, including National Guard emergency deployment.