

MISCONDUCT: 5.
General.

Refer to: MISCONDUCT: 485.6.
Money Matters, Regulation
Governing.

Vernon Branch, Jr. v. Virginia
Employment Commission and Virginia
Chemical Company, 219 Va. 609.

MISCONDUCT

5. General.

Includes cases containing (1) a general discussion of misconduct, if the point cannot be handled by a specific line, (2) points not covered by any other line in the misconduct division, or (3) decisions under a statutory provision other than a misconduct provision, which do, nevertheless, decide the factor of "misconduct" or "discharge."

15. Absence:

15.05 General.

Includes cases containing (1) a general discussion of absence as related to misconduct, (2) points not covered by any other subline under line 15, or (3) points covered by three or more sublines.

15.1 Notice.

Where the question of notice rather than the absence itself is the chief consideration.

15.15 Permission.

Where the question of permission rather than the absence itself is the chief consideration.

15.2 Reasons.

Consideration of the reasons for absences.

45. Attitude toward employer:

45.05 General.

Includes cases containing (1) a general discussion of claimant's attitude toward employer's interest, (2) points not covered by any other subline under line 45, or (3) points covered by three or more sublines.

45.1 Agitation or criticism.

Where a worker makes disparaging remarks about his employer or his employer's business, either at work or elsewhere; and situations in which a worker stirs up resentment and dissatisfaction among other employees.

45.15 Competing with employer or aiding competitor.

Where a claimant engages in business in competition with his employer or aids a competitor of the employer.

45.2 Complaint or discontent.

Involves a worker's complaints about, or his dissatisfaction with, his equipment, his fellow employees, or other working conditions.

45. Attitude toward employer: - Continued
- 45.25 Damage to equipment or materials.
Involves the claimant's willful or careless destruction of property, as reflecting a disregard of the employer's interest.
 - 45.3 Disloyalty.
Discussion as to whether a claimant's actions reflect a disloyal attitude toward the employer.
 - 45.35 Indifference.
Lack of interest or regard for employer's interests.
 - 45.4 Injury to employer through relations with patron.
Includes discourtesy to or neglect of a patron, or criticism of the employer's service or product to a customer.
85. Connection with work.
Applies to cases which determine whether the act for which the claimant was discharged was connected with his work or in the course of his employment.
135. Discharge or leaving:
- 135.05 General.
Includes cases containing (1) a general discussion of leaving or discharge, (2) points not covered by any other subline under line 135, or (3) points covered by three or more sublines.
 - 135.15 Constructive discharge.
Where the claimant actually left employment, but under conditions that raise a question as to whether he was constructively discharged, as when his job was abolished, or when there was no job of the description for which he was hired, or when he was ordered to work under conditions that were not in his contract of employment.
 - 135.25 Discharge before effective date of resignation.
Where claimant, upon giving notice that he intended to resign as of a certain date, was advised by the employer that he need not work until that date.
 - 135.3 Involuntary separation.
Discussions as to whether or not the separation was voluntary.
 - 135.35 Leaving in anticipation of discharge.
Where the claimant left in anticipation of a discharge, or resigned when told he would have his choice of resigning or being discharged.

135. Discharge or leaving: - Continued

135.45 Suspension for misconduct.

Involves the question of whether claimant was suspended for misconduct in States having a provision for disqualifying a claimant who is suspended for misconduct.

140. Dishonesty:

140.05 General.

Includes cases containing (1) a general discussion of dishonesty, (2) points not covered by any other subline under line 140, or (3) points covered by three or more sublines.

140.1 Aiding and abetting.

Where a claimant allowed his employer to be defrauded by others, by helping or permitting acts of dishonesty to be committed without informing his employer or trying to prevent them.

140.15 Cash shortage or misappropriation.

Where cash was converted or misappropriated.

140.2 Falsehood.

Where claimant gave a false reason for an absence, or made false statements about employer, fellow employees, or amount of work done,

140.25 Falsification of record.

Where claimant has given false information on application for work or on records in the course of his employment or has destroyed such records.

140.3 Property of employer, conversion of.

Taking of employer's property and putting to employee's own use.

140.35 Property of other than employer, conversion of.

Taking of property of other than employer and putting to employee's own use.

140.4 Purchase.

Purchasing from the employer in a manner which violates employer's established rules regarding such purchases.

190. Evidence:

190.05 General.

Includes cases containing a discussion of technical points of evidence, other than those under the specific sublines of line 190, relating to application of the misconduct provision.

190. Evidence: - Continued

190.1 Burden of proof and presumptions.

Applies to discussions as to which party has burden of proof, or as to legal adequacy of particular evidence to overcome presumptions relating to application of the misconduct provision.

190.15 Weight and sufficiency.

Consideration of weight and adequacy of particular evidence relating to application of the misconduct provision.

255. Insubordination:

255.05 General.

Includes cases containing (1) a general discussion of insubordination, (2) points not covered by any other subline under line 255, or (3) points covered by three or more sublines.

255.1 Disobedience.

Where claimant refused to perform a particular task, to perform his work as directed, or to act in the manner required.

255.15 Dispute with superior.

Involves argument or altercation with one in a supervisory position.

255.2 Exceeding authority.

Where claimant decides to tell other employees how to perform their jobs, to assume responsibilities not authorized, or otherwise to overstep his authority.

255.25 Negation of authority.

Where the claimant ignores, or refuses to discuss a situation with, his supervisor, and goes directly to higher authority.

255.3 Refusal to:

255.301 Increase production.

Claimant declined to raise his production over the minimum requirements of his job, or to the agreed required production.

255.302 Transfer.

Claimant refused to transfer to another shift, to another type of work, to closed-shop work, or to lower-paying work.

255. Insubordination: - Continued

255.3 Refusal to: Continued

255.303 Work.

Claimant refused to work at all, under certain conditions, or more than a certain number of hours (not overtime).

255.304 Work overtime.

Claimant refused to work overtime, to work overtime without a higher rate of pay, or to work without pay for the overtime.

255.35 Ridicule of authority.

Where claimant derides or ridicules those in authority.

255.4 Vulgar or profane language.

Where vulgar or profane language is used by employee to supervisor.

255.45 Wage dispute.

Where the claimant was discharged for refusing to work unless given a higher rate of pay, or for asking for a raise in wage.

270. Intoxication and use of intoxicants.

Includes cases where claimant was discharged for intoxication or use of intoxicants.

300. Manner of performing work:

300.05 General.

Includes cases containing (1) a general discussion of manner of performing work, (2) points not covered by any other subline under line 300, or (3) points covered by three or more sublines.

300.1 Accident.

Where claimant was involved in an accident. In such a case, damage or lack of it is not the controlling element.

300.15 Damage to equipment or materials.

Where damage to equipment or material was the result of claimant's manner of performing work.

300.2 Judgment.

Considers the question of whether a poor exercise of judgment constitutes misconduct.

300.25 Quality of work.

Where claimant was discharged because of the poor quality of his work.

300.3 Quantity of work.

Where claimant was discharged because his production was insufficient.

310. Neglect of duty:

310.05 General.

Includes cases containing (1) a general discussion of neglect of duty, (2) points not covered by any other subline under line 310, or (3) points covered by three or more sublines.

310.1 Duties not discharged.

Where the claimant neglected to perform all the duties of his job, failed to work overtime or some particular time, or failed to complete or do a particular task.

310.15 Personal comfort and convenience.

Involves claimant's wasting employer's time by, for example, talking and laughing or annoying other employees by singing or whistling, or sleeping at his post of duty.

310.2 Temporary cessation of work.

Where the claimant left before closing time or for some reason ceased working without authorization.

350. Period of disqualification, factors affecting:

350.05 General.

Includes cases containing (1) a general discussion of disqualification, (2) points not covered by any other subline under line 350, or (3) points covered by three or more sublines.

350.15 Attitude of claimant.

Considers circumstances such as the claimant's malice, or willfulness, etc., in performing the act which resulted in his discharge.

350.2 Custom in establishment.

Considers the customs of the establishment, such as the general enforcement of a company rule, in evaluating the gravity of the claimant's act.

350.35 Previous record of claimant.

Where claimant's previous record, whether good or bad, influenced the tribunal in the assessment of the disqualification period.

350.45 Seriousness or consequences of misconduct.

Where the seriousness or consequences of misconduct influenced the tribunal in the assessment of the disqualification period.

385. Relation of offense to discharge.
Includes cases in which there is a discussion of whether the alleged act of misconduct was too remote from the time of discharge to constitute a causal effect; also whether the alleged act of misconduct was the primary cause of the discharge.
390. Relations with fellow employees:
390.05 General.
Includes cases containing (1) a general discussion of discharge because of relations with fellow employees, (2) points not covered by any other subline under line 390, or (3) points covered by three or more sublines.
- 390.1 Abusive or profane language.
Involves the use of abusive or profane language in talking with fellow employees.
- 390.15 Agitation.
Where a claimant creates a disturbance which is contrary to his employer's interest.
- 390.2 Altercation or assault.
Where claimant has an argument or fight with another employee.
- 390.25 Annoyance of fellow employee.
Where claimant molests or irritates or otherwise annoys fellow employees.
- 390.3 Debt.
Involves a discharge because of the debt, or some incident of such debt of claimant to a fellow employee.
- 390.35 Dishonesty.
Applies to acts of dishonesty in relation to fellow employees.
- 390.4 Uncooperative attitude.
Considers the effect of claimant's uncooperative attitude upon his fellow employees.
435. Tardiness.
Includes cases where claimant was discharged for being late at work.
475. Union relations:
475.05 General.
Includes cases containing (1) a general discussion of discharge because of union relations, (2) points not covered by any other subline under line 475, or (3) points covered by three or more sublines.

475. Union relations: - Continued

475.15 Argument with representatives.

Involves a determination as to whether an argument by claimant with the union representative constitutes misconduct.

475.35 Labor dispute, participation in.

Discussion of the legal effect of a discharge for an act which occurred during the course of a strike or a labor dispute.

475.5 Membership or activity in union.

Where claimant is discharged for joining a union, or for taking an active part in a union.

475.6 Refusal to join or retain membership in union.

Involves a discharge because of the claimant's refusal to join or retain membership in any union, or some particular union.

475.9 Rival union.

Where discharge occurred as a result of claimant's participation in a conflict between rival unions.

475.95 Violation of union rule.

Where the claimant was discharged, at the insistence of his union, because of his violation of one of its rules.

485. Violation of company rule:

485.05 General.

Includes cases containing (1) a general discussion of violation of company rule, (2) points not covered by any other subline under line 485, and (3) points covered by three or more sublines.

485.1 Absence, tardiness, or temporary cessation of work.

Where a point is made of the fact that the absence, tardiness, or leaving early was in violation of a company rule.

485.15 Assaulting fellow employee.

Where claimant fights or verbally assaults a fellow employee in violation of a company rule.

485.2 Clothes.

Where claimant refused to wear clothing in accordance with employer's requirement.

485. Violation of company rule: - Continued

- 485.25 Competition, other work, or recommending competitor to patron.
Where a claimant contrary to a company rule established a business of the same kind as his employer, thus taking away from his former customers, or advised a customer that he could obtain a better product elsewhere.
- 485.3 Dishonesty.
Where claimant commits a dishonest act in violation of a company rule.
- 485.35 Employment of married women.
Where claimant is discharged because of a company rule forbidding employment of married women.
- 485.4 Gambling or game playing.
Where claimant is discharged because of violation of company rule prohibiting gambling or any form of game playing.
- 485.45 Intoxicants, use of.
Involves intoxication in violation of a company rule.
- 485.5 Maintenance of equipment.
Where claimant has misused or has failed to give proper care to equipment in accordance with company rule.
- 485.55 Manner of performing work.
Discusses violations of a company rule regulating the manner in which employees perform their work.
- 485.6 Money matters, regulation governing.
Where claimant is discharged for violation of a company rule in regard to regulation of money matters.
- 485.65 Motor vehicle.
Where claimant is discharged for violation of a company rule in regard to use of motor vehicles.
- 485.7 Personal comfort and convenience.
Where claimant violates company rule in regard to talking or smoking or idling away time in any other manner.
- 485.75 Removal of property.
Where the decision was based upon the fact that property was removed in violation of a company rule.

485. Violation of company rule: - Continued

485.8 Safety regulation.

Where claimant was discharged for violation of a safety rule or regulation.

485.85 Store purchase.

Involves the claimant's violation of his employer's rule concerning the purchase, either by employees or by the public, of merchandise.

485.9 Time clock.

Where claimant violates company rule in regard to use of attendance records.

490. Violation of law:

490.05 General.

Includes (1) a general discussion of discharge for violation of law, (2) points not covered by any other subline under line 490, or (3) points covered by three or more sublines.

490.1 Conversion of property law.

Includes cases in which claimant has unlawfully taken property of another and put it to his own use.

490.15 Liquor law.

Where claimant has violated liquor law.

490.2 Motor vehicle law.

Where claimant has violated motor vehicle law.