

Quitting Your Job

YOUR LEGAL RIGHTS

1. Can I quit my job?

California law permits most employees to quit their jobs at any time, regardless of the reason for quitting. Only a small number of employees are not permitted to leave their employment at any time without consequences, and that's because they have a contract stating the specific duration of their employment.

2. Do I have to give 2-week notice to my employer before quitting my job?

As a business courtesy, many employees choose to give advance notice (such as two weeks) to their employer before quitting. However, there is no legal requirement that you do so.

3. If I quit, can I still sue my employer for discrimination or harassment?

Under most circumstances, if you quit your job you can't later claim that you were wrongfully terminated for an illegal reason, such as discrimination. There is an important exception to this rule if you can show that your quitting was actually a **constructive discharge**. To prove that you were constructively discharged you have to show that the conditions or actions of your employer were so bad (e.g. constant sex harassment) that a reasonable person in your position would have resigned. A one-time incident when your employer treated you rudely or a single poor performance rating or demotion does not rise to the level of a constructive discharge. And, you must show that your employer actually knew of the illegal conditions and could have fixed the situation but did not. Bottom line: If you are being illegally harassed or discriminated at work, make sure you tell the owner or your supervisor before you quit, and give them a chance to correct the problem. Otherwise, you will not be able to quit and still sue your employer for wrongful termination.

4. If I quit my job, can I still collect unemployment insurance?

Normally, no. However, if you can show that you had a good reason for quitting your job, such as because you were the victim of sex harassment, then you may be able to collect unemployment insurance. See our Fact Sheet titled "**Unemployment Insurance: Eligibility after Quitting a Job**" for more information about when you can quit a job and still collect unemployment insurance.

5. If I quit, when will I be paid?

If you give your employer at least 72 hours notice before quitting, *all* earned wages are due at the end of the last day of your work. If you quit without providing notice ahead of time, all wages are

due within 72 hours from when you quit. If you quit without giving notice, you may prefer to receive your final paycheck by mail. To do so, you must provide your employer with a request that your check be mailed, including your correct mailing address. The mailing date (i.e. postmark) will be considered the date of your final check.

6. How can I make sure that my employer will pay me within 72 hours?

As noted in #5 above, California requires that your employer pay all of your final wages no later than 72 hours after quit, or at the time you quit if you gave 72 hour advance notice of quitting. For every day that your employer intentionally fails to pay after that 72 hour period, your employer may have to pay you a **penalty** equal to your daily wage, up to a maximum of 30 days of wages. To prove that your employer intentionally failed to pay you, you merely have to show that your employer knew he had to pay your full final paycheck and failed to do so.

7. Will I be able to continue my health insurance if I quit?

If you lose your job, whether by quitting or being fired, you normally can continue your group health insurance coverage from your former employer’s group health plan for you and your family for a limited period of time (normally up to 36 months) under a law named the “Consolidated Omnibus Budget Reconciliation Act” (COBRA). For more information on whether you qualify for COBRA coverage, see our Fact Sheet titled “**Health Insurance After Employment: COBRA.**”

This fact sheet is intended to provide accurate, general information regarding legal rights relating to employment in California. Yet because laws and legal procedures are subject to frequent change and differing interpretations, the Legal Aid Society - Employment Law Center cannot ensure the information in this fact sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.

For further information about your employment rights, please call:

The Workers’ Rights Clinic

415-864-8208 (SF Bay Area) or **866-864-8208** (Toll Free in CA)

The Workers’ Rights Clinic is a project of The Legal Aid Society - Employment Law Center, a non-profit organization focusing on the employment-related legal rights of low-income workers and providing free legal information on a wide range of employment-related problems.