

Wage Payment & Collection Fact Sheet 10

Discharge Limitations / Volunteer & Emergency Personnel

West Virginia Division of Labor

Wage & Hour Section

WPCA Fact Sheet 10 – Volunteer Firemen / Emergency Personnel {§21-5-17 & §21-5-18}

FACT SHEET – Discharge Limitations Relating to Firemen and Emergency Response Personnel

VOLUNTEER FIREMEN

No employer may terminate, or use any disciplinary action against, an employee who is a member of a volunteer fire department or who is an emergency medical service attendant and who, in the line of emergency duty as a volunteer fireman or emergency medical service attendant, responds to an emergency call prior to the time he or she is due to report for work and which emergency results in a loss of time from his or her employment.

Any time lost from employment as provided in this section may be charged against the employee's regular pay or against the employee's accumulated leave, if any, at the option of the employee. At the request of the employer, any employee losing time shall supply his or her employer with a statement from the chief of the volunteer fire department or other appropriate person in charge stating the employee responded to an emergency call and the time thereof. {§21-5-17}

EMERGENCY MEDICAL PERSONNEL

No employer may terminate an employee who is a member of an emergency medical service and who, in the line of emergency duty as an emergency medical service member, responds to an emergency call prior to the time he or she is due to report to work and which emergency results in a loss of time from employment.

Any time lost from employment as provided in this section may be charged against the employer's regular pay. At the request of an employer, any employee losing time as provided herein shall supply a statement from the director of health stating that the employee responded to an emergency call and the time thereof. {§21-5-18}

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EMPLOYER VIOLATIONS & REMEDIES

Any employer who willfully and knowingly violates the provisions of these sections must reinstate the employee to his or her former position and shall be required to pay the employee all lost wages and benefits for the period of time between termination and reinstatement. Any action taken to enforce the provisions of these sections must be commenced within a period of one year after the date of violation in the circuit court of the county wherein the place of employment is located.

LIMITATIONS OF AUTHORITY

The provisions of §21-5-17 & §21-5-18 as they relate to the discharge of employees for lost time as a volunteer fireman or an emergency medical response person are limited to when an emergency call results in the employee arriving to work late. It does not apply to emergency response situations that may occur after the employee has already reported to work.

Any action taken to enforce the provisions of these sections must occur within one year after the date of violation through the circuit court of the county where the place of employment is located.