



Help Wanted: Getting cut out of severance

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August 21, 2012 by CARRIE MASON-DRAFFEN / carrie.mason-draffen@newsday.com



DEAR CARRIE: I worked for a local financial institution in the tri-state area that was recently bought. The company offered severance packages to people who lost their jobs after the takeover. I didn't get the severance offer because I was retained. The company wanted my skill set. My supervisor assured me that despite a new owner, nothing about my job would change. I even received a letter confirming that my title would be the same.

That turned out to be untrue. I was placed in a lesser position and my hours and office location changed as well.

So I quit because my career seemed to be going backward. Despite my resignation I feel I am entitled to the severance package because I was deceived.

But the human resources department of the new financial institution said I am not entitled to severance because I quit. I have what I feel is substantial documentation that my position was changed, including a letter from a manager of the new financial institution stating that he understands why I am leaving and that my job now is a "polar opposite" of what it was. Is there anything that I can do? -- **Duped**

DEAR DUPED: Unfortunately, you have virtually no recourse on any fronts in your situation. That's true for the company switcheroo and for the severance issue. And to make matters worse, your resignation jeopardizes your eligibility for unemployment benefits.

Companies traditionally offer severance packages to employees who lose their jobs, not those who quit.

"This potential claim is even more remote based on the fact that the employee in this case resigned, which will also have the effect of disqualifying . . . [him] from receiving unemployment benefits," said employment attorney Michael J. Borrelli of Borrelli & Associates in Great Neck.

You would have grounds for a severance claim, if the company routinely offered the benefit to employees who quit. But that isn't a common practice.

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"In New York, if an employer is engaged in a practice of making severance payments to nonunion employees on the termination of their employment, and if such employees relied on this practice in accepting or continuing their employment, plaintiff has a cause of action against the defendant," said Borrelli, quoting case law.

Lastly, the unexpected changes that prompted you to quit, though unfair, are probably legal. That's because New York is an employment-at-will state.

"That means that an employer can fire an employee, or alter the terms and conditions of employment as the needs of their business dictate," Borrelli said.

So you may have to just chalk up your losses to a painful, but valuable learning experience about employment law.

DEAR CARRIE: My wife works for a cooperative that provides educational services to public schools. In the past, she worked 12 months.

Now the employer has cut employees back to 10 months. So for two months of the year, she will earn no income. Can she apply for unemployment benefits for those months of no work and no pay? -- **Concerned Hubby**

DEAR CONCERNED: She could well qualify because her situation differs from the usual educational breaks, for which school-district workers assured of a job, in say September, wouldn't be eligible for unemployment benefits during the summer months.

Your wife's situation is different because, as you pointed out, she traditionally worked year round.

Here is what the state [Labor Department](#) says:

"I think the best answer is simply to tell her to apply, and we will assess her situation. Just because the institution is . . . [an educational facility, that] wouldn't automatically rule her out. She was a 12-month employee. . . . That's why she should apply and be assessed."

For more on severance pay and labor law go to <http://tinyurl.com/o8mok>

For more on unemployment benefits go to <http://tinyurl.com/23aln4c>

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