Your Employment Rights During Disaster

Can I leave work or not report to work if there's a disaster? Don’t assume that you can leave work or not report to work during a disaster unless there’s an official evacuation order. Texas law says your employer may not fire or discriminate against you for leaving work as part of an Emergency Evacuation Order. This is an official statement by the government recommending evacuation because of a disaster or potential disaster. If there is no officially declared evacuation, your absence may be considered personal leave, unauthorized leave, or possibly grounds for termination, depending on your employer’s policies.

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 your 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. If you were fired but not “for cause”, like participation in evacuation or layoff related to the disaster, you have the right to challenge your employer’s version in order to get unemployment compensation. If approved, your benefits are based on income from your past employment, not on need. To keep getting benefits, you must able to work and actively seeking employment. In disaster situations, these requirements may be suspended. If you are temporarily laid off and have a definite return-to-work date, work search requirements may be waived. File for unemployment benefits 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. To apply, 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. Apply at www.twc.state.tx.us/jobseekers/disaster-unemployment-assistance.

Other Employment Issues

Family and Medical Leave Act (FMLA)
Employees are entitled to leave for a serious health condition caused by the disaster. It also applies to an employee who must care for a child, spouse, or parent with a serious health condition.

Americans with Disabilities Act (ADA)
Employees who are physically or emotionally injured as the result of a disaster may be entitled to reasonable accommodation from their employer, if it would not place undue hardship on the employer's business operations.

Uniformed Services Employment and Reemployment Rights Act (USERRA).
An employer cannot discharge or deny employment benefits of an employee’s uniformed service, including National Guard emergency deployment.

Occupational Safety and Health Act (OSHA) and National Labor Relations Act (NLRA)
Under OSHA and NLRA, employees have the right to refuse to work in conditions they believe are unsafe. OSHA ensures a safe workplace and makes employers responsible for protecting employees from unreasonable workplace danger. This includes safety issues caused by disasters, such as asking employees to come into work during dangerous weather, the potential for auto accidents, slips and falls, flying objects, and exhaustion from working extended shifts. NRLA protects both union and nonunion employees who refuse to work because of safety concerns. The NRLA protects “concerted activity” by employees. Concerted activity usually involves more than one employee, but it can be considered “concerted” if one employee acts on a matter that affects the other workers.