

Employees Who Engage in Fraud are Ineligible for Unemployment Compensation

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Recently, the Pennsylvania Commonwealth Court upheld the determination of the Unemployment Compensation Board of Review which denied unemployment compensation benefits to an employee who had engaged in insurance fraud. Downey v. Unemployment Compensation Board of Review, 2006 WL 3716528 (Pa. Commw. 2006). In Downey, the employee had sustained a work related injury which rendered him unable to work. In addition to being unable to work, the employee alleged that he could not care for or maintain his home, including performing necessary painting, plumbing, landscaping and carpentry work. The employee alleged that because he was unable to perform these tasks, he was in jeopardy of losing his home.

Shortly thereafter, the employer received an anonymous tip which prompted an investigation of the employee. Based on the investigation, the employer learned that the employee could perform heavy work around the house (i.e. stripping the exterior of his house, climbing ladders, digging post holes, using a sledge hammer and operating a gas powered trimmer). The employee was subsequently discharged and sought unemployment compensation benefits.

Despite the absence of specific case law, Pennsylvania Commonwealth Court found the employee to be ineligible for unemployment compensation benefits. In reaching its decision, the Court compared the employee's acceptance of Workers' Compensation benefits when he was physically able to work to cases where unemployment benefits had been denied based on an employee's dishonesty, misrepresentation and theft. Accordingly, the employee was determined to have engaged in willful misconduct and was rendered ineligible for unemployment compensation benefits.