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Steps to take if you're fired from your job

Call it what you will — downsizing, restructuring, career alternative enhancement program, or negative employee retention — in plain English, you've been fired.

If it hasn't happened to you yet, it still may. And while planning to be fired is probably

the last thing any employee wants to think about right now, the reality of today's marketplace is that people are being fired wholesale as companies struggle to survive in this recession.

Statistics kept by the American Management Association, for example, show that one-third of American companies have laid off employees in each of the last three years. And the trend shows no sign of abating in the near term.

According to the outplacement firm of Lee Hecht Harrison, nearly 1 million managers with salaries in excess of \$40,000 have lost their jobs so far in the current recession. And that doesn't even begin to take into account the millions of line and production workers whose jobs have "attained obsolescence" in the last year.

It is demoralizing enough to lose your job, but to add to the problem, many employees do not know their rights when they have been let go. Traditionally, employees just hung their heads and left, says Steven Sack, a New York labor lawyer who specializes in representing employees who have resigned or been fired.

(Sack also is the author of the just-released "Employee Rights Handbook: Answers to Legal Questions From Interview to Pink Slip" (Facts on File, 1991). The book, not available in bookstores, can be obtained through the Employee Rights Center in Forest Hills, N.Y., or by calling 1-800-255-2665.)



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Most employees don't realize they have more rights today than they did five or 10 years ago, says Sack. Unfortunately, most people are so in shock when their job is pulled out from under them that they don't take advantage of the rights they do have.

Here are some of his suggestions:

■ First, think carefully about the timing of the company's action. Were you fired with no warning just before you were to receive an anticipated bonus, the commissions you earned for the year, or were about to become vested in company pension or profit-sharing plans? If so, it's worth looking into whether you have grounds for legal action. The company may have breached its fiduciary duty of implied good faith, says Sack.

■ Regardless of whether you feel your firing was unfair, don't immediately accept any offer the company makes. Tell your employer you need time to think about the terms of your severance. After all, you just got fired.

■ Never agree to resign. There is very little stigma attached to being fired for economic reasons today. "Most everyone's been fired in the last two years," Sack says. But if you voluntarily resign, you forfeit your rights to unemployment compensation.

■ Appeal to the company's sense of fair play. If you have been a loyal employee for 20 years, point that out and tell the company you need more time and money to find another job.

■ If you were anticipating a bonus or expected to be paid commissions for the previous year, ask for that money.

■ Four weeks of pay for every year of service is a good rule of thumb for negotiating a severance package.

■ Don't forget to negotiate for non-monetary benefits as well. Ask whether the company will pay for health benefits, outplacement counseling and relocation costs (especially if you relocated to work for the firm). Consider asking for the use of an office to mount your job search.

■ Always try to get a favorable letter of recommendation in your hands before you leave the company.

Clearly, you won't get everything you ask for, says Sack. "The object is to throw 20 darts in the wall and hope five of them stick."

In addition to pointing out how fired employees can negotiate better severance packages, Sack has some advice for people before they've been fired. The first thing is to get your hands on copies of any manuals that address layoff policies, he says. If the company does not adhere to its own policies in the event of a layoff, you may have grounds for action.

Secondly, know what your contract says about job security, since that will be a blueprint for your rights (or lack of them) down the road.

And most important of all, make sure you have copies of any letters or documents that go into your personnel file. This may be your only ammunition to refute a firing for "lack of performance" or other vague reasons in the future.

Because there may be thousands of dollars at stake, as well as your future career, negotiating your own firing can be one of the most significant financial events in your life, says Sack.

Employers clearly still have the right to lay people off for economic reasons, unacceptable performance or transgressions of company policy. But they do not have the right to treat employees unfairly in the process.

■ Carol Smith is a P-I business columnist. Her column appears Fridays.