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The W.A.R.N. Act: Mass Layoffs or Business/Plant Closings

This is the intro text in English.

- open all answers
- close all answers
- print version
- disclaimer

1. Can my employer lay me off without any warning?

   Maybe. The WARN (Worker Adjustment and Retraining Notification) Act requires businesses who employ over 100 workers to either give their employees 60 days' notice in writing of a mass layoff or plant closing, or to pay the employees if they fail to give the notice.

   The WARN Act requires advance notice of loss of employment so workers have time to look for another job or receive training in another occupation.

   back to top

2. What if my employer doesn't give me notice of the layoff?

   If you are entitled to this notice and your employer fails to provide it, you may be due back pay and benefits that you would have earned during that 60 days as if the layoff had not occurred.

   back to top

3. How do I know if I was part of a "mass layoff?"

   A mass layoff occurs under the WARN Act when:

   - at least 50 employees are laid off during a 30-day period, if the laid-off employees made up at least one third of the workforce;
   - 500 employees are laid off during a 30-day period, no matter how large the workforce; or
   - an entire work site is closed down and at least 50 employees are laid off during a 30-day period.

   back to top

4. Is my employer covered by the WARN Act?

   A business is covered if it employs at least 100 full-time employees *or* a combination of at least 100 part-time and full-time employees who work a total of 4000 hours per week. (Note: A part-time employee is someone who works fewer than 20 hours each week, or who has been employed fewer than six months before the date the notice should have been issued.)

   back to top

5. I worked for my employer for only one month. Am I still entitled to benefits under the WARN Act?

   A covered employee is normally entitled to 60 days' notice (or pay in lieu of notice). But if you were employed less than 120 days, then you get the lesser of 60 days' notice or half the number of days you were employed. In your case, you would be entitled to 15 days' notice or pay (half of one month of employment).

   back to top

6.

I was laid off without notice right before a holiday that I was scheduled to work. Am I entitled to the extra money I would have made?

A covered worker is entitled to any pay she would have earned in the covered period. For instance, if you earn tips or overtime pay on a regular basis, your employer may have to compensate you for those earnings, too.

Holiday pay is also covered, though you would also need to prove that you would have worked that holiday if you had not been laid off.

An employer also is required to pay for retirement benefits during the covered period, and for any medical expenses that would have been covered under the medical insurance plan.

back to top

7. My employer cut my wages and then laid me off without notice. Can he pay the WARN Act compensation at the lower rate?

Payment is calculated at either the average wage you received over the last three years of employment, or the last rate you received, whichever is *greater*. So in your case, the pay might be the average you received over the last three years.

back to top

8. I was working as a temp and then laid off. Am I covered?

The WARN Act does not protect employees who were hired with the understanding that the position was temporary, so temp workers generally would not be covered.

back to top

9. My employer laid me off when she moved the business to another city. Am I entitled to notice or pay?

If the layoff is due to the business relocating, the workers are not covered if the new worksite is within reasonable commuting distance, and the employer offers the employees the chance to transfer to the new site. If the site is not within reasonable commuting distance and the employee decides to transfer there anyway, the employee also is not entitled to notice or payment.

back to top

10. I was laid off because the business unexpectedly lost a huge customer. Am I still entitled to notice or payment?

Under certain conditions, the notification period can be reduced:

- if the layoff is due to a natural disaster;
- if the business closes due to circumstances that the employer could not reasonably have foreseen 60 days ahead of time;
- if the employer was trying to avoid or postpone the layoff by obtaining capital, and he believed that giving notice would have jeopardized the funding.

However, the employer is still required to give as much notice as possible under all of the above circumstances.

back to top

11. How do I file a claim against my employer for not giving me enough notice?

The WARN Act is enforced by lawsuits to collect back pay and penalties when an employer does not give notice. You will therefore have to file your claim against your employer in federal court.

back to top

For further information about your employment rights, contact the Workers' Rights Clinic.

Disclaimer

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