

Workers' Benefits: Volunteer Emergency Responder Job Protection

N.D. Cent. Code, 37-29-03

When an emergency declaration is in effect, an individual who is a volunteer emergency responder will not be terminated, demoted, or discriminated against for being absent or tardy to work, up to 20 days per year, on the basis of their service as a volunteer emergency responder. They can be terminated, demoted, or discriminated against for not attempting to inform their employer of their volunteer service.

An employee of a state, local, or private agency or entity that performs critical emergency services during a disaster is not entitled to the job protection if their absence will cause their employing agency or entity to suffer from understaffing during the declared emergency.

Discrimination prohibited in employment practices ? Limitations ? Verification ? Civil actions

1. An employer may not terminate or demote an employee who is a volunteer emergency responder or in any other manner discriminate against that employee in the terms and conditions of employment based upon the employee being absent or tardy from employment due to serving as a volunteer emergency responder in responding to a disaster or emergency.

2. An employee who is terminated, demoted, or otherwise discriminated against in violation of this section may bring a civil action against the employer that violated this subsection. In the civil action, the employee may seek reinstatement to the employee's former position; payment of back wages; reinstatement of fringe benefits; and if seniority rights are granted, the employee may seek reinstatement of seniority rights. A civil action under this section

must be commenced within one year of the date of the violation.

3. Except for an involuntarily activated North Dakota national guard member, subsection 1 does not apply if due to serving as a volunteer emergency responder, the employee is absent or tardy from the employee's place of employment for a period that exceeds twenty regular working days in a calendar year.

4. In order to receive the protections of subsection 1, an employee who will be absent or tardy from the employee's place of employment while serving as a volunteer emergency responder in the case of a disaster or emergency shall make reasonable efforts to notify the employer of that service.

5. An employer may request that an employee provide the employer with written verification of times and dates of instances during which the employee was absent or tardy from employment due to serving as a volunteer emergency responder in the case of a disaster or emergency. Verification under this subsection may include a statement from the department of emergency services, the adjutant general's office, the North Dakota wing of the civil air patrol, or other appropriate entity.

6. This section does not limit an employer from charging against an employee's regular pay the time the employee is absent or tardy from employment while serving as a volunteer emergency responder to a disaster or emergency.