

At Will Employment / Limits to the At Will Employment Relation

New York is an employment “at will” state. What this means is that unless you have a contract of employment that sets forth a specific term of employment (set number of years) you are an at will employee.

What does at will employment mean? If you are an “at will employee” you can be fired from your job for *any* reason, provided that the reason for your termination does not violate any laws. Thus, unless you have an employment contract that says otherwise, your employer can terminate your employment without just cause and without even giving you a warning. Similarly, if you are an at will employee, you have the right to depart from your employment without any reason or warning.

As an at will employee, your employer can terminate your employment for good cause, bad cause or no cause at all.

At will also means that your employer can change the terms of the employment relation with no notice and no consequence. For example, an employer can change your wages, terminate or alter your benefits, or limit your time off. If your employer makes such modifications, it will then be up to you to determine whether you are interested in remaining with this employer. If this happens to you, do not act rashly. We are available to speak with you to explain your rights and options. You may be in a position to negotiate terms and conditions that both you and your employer can agree upon going forward. We can discuss this with you as well as alternatives that may be mutually beneficial for the employment relation and how to approach your employer with these suggestions/proposed resolutions.

Today many employees will receive offer letters that clearly

set forth that the new employment relation is at will. This at will relation is typically reaffirmed in an employer's handbook or policies distributed to its employees. The majority of employees are at will employees, as contracts with fixed employment terms are commonly reserved for the high level executives of the company. This does not mean that you cannot protect your employment. We can help you do this.

Exceptions to the at will relation do exist. These are generally based on an implied contract of employment and/or public policy. For example, if your employer has a handbook that states you must receive three warnings prior to being terminated, and you have been fired without any warning, you may have a legal claim against your employer for this termination.

Also, as stated above, an employer cannot terminate your employment, even if you are an at will employee, if doing so would violate the law. Thus, you cannot be terminated so that your employer does not have to pay you an earned bonus, because you filed for workers' compensation, because you appeared in court under a subpoena for jury duty, because you refused sexual advances of your employer, or because you reported your employer's illegal acts to authorities, etc.

Our firm can assist you in understanding your at will relation. We can assist you in reviewing any documents received from your employer prior to commencing employment, after commencing employment or if you are terminated.

Additionally, we are available to assist you during the negotiation process with a prospective employer so that you may carefully raise questions early in the process. We can guide and counsel you during your employment should changes to the terms and conditions of your employment be proposed or implemented. We are here to help you and to explain your rights and obligations.

If you are interested in these services, please contact our office to schedule a time to speak.