Refusing to Return To Work

As many employers are gearing up to begin to re-open, many workers are refusing to return. For numerous reasons from fear of catching COVID-19, to actually making more money on unemployment. As an employer, follow these steps to help resolve your issue.

1. Communication first. Sit down, and have a nice (virtual) conversation with the employee. Explain to them that by refusing to work they are turning down qualified, suitable work, this will put them at risk of losing their COVID-19 unemployment benefits. Be sure to let them know all the safety measures you are taking under the guidance of the CDC and federal and state recommendations. If you are following all guidelines, workers cannot refuse suitable work and get any kind of unemployment.

2. If your employee still refuses to return to work, you, the employer, should ask the employee to email or otherwise document that they are not returning to work although they are recalled. Even if your employee does not, document the conversation.

3. If the employee refuses, you as the employer should email the employee with their expected return to work date, and a schedule that was discussed on your call or e-meeting. Again, be sure to document this conversation including the expected return to work date.

4. When the return to work date arrives, if the employee does not show up to work, you may move them to the status of permanent layoff in your payroll system. You may send them a letter letting them know of their permanent layoff status due to refusal to work, and keep it on file.

5. At this point, you can hire and replace the employee. If you have received a PPP loan, if you have all documentation showing their refusal to work, your loan forgiveness should not be effected.

6. Finally, you may now choose to notify the State unemployment office that the employee has been moved to permanent layoff status for refusing to return to work. This optional step may help the company's unemployment rate from increasing more than it should in the future.