OSHA EXPLAINS: How We Investigate Whistleblower Complaints under the OSH Act

You or your representative file You engaged in Your employer takes "protected activity" an "adverse action" a whistleblower retaliation under the OSH Act. against you. complaint with OSHA. Must be filed within For example, did you: For example, did your employer: 30 calendar davs after the · Raise a workplace safety and/ or • Fire you? adverse action occurs! health concern to a supervisor? • Demote you? • File a safety/health complaint The protected activity must have • Reduce your hours? with OSHA? caused the adverse action. • Threaten to contact immigration? Report a work-related injury or illness to your employer? · Participate in/cooperate with an OSHA inspection? Investigator evaluates your Investigator interviews you. complaint to ensure it meets Complaint accepted. You submit evidence (such as minimum requirements. Employer notified of emails, text messages, written (WIM-Chapter 3.II.D.) complaint and your identity. warnings, phone records, etc.) Investigator will contact you Investigation begins. to the OSHA investigator. with findings. Complaint does not meet Complaint does not meet requirements and you don't agree requirements and you agree that it may be administratively that it may be closed without closed. Complaint is docketed for an investigation (administratively investigation, immediately closed) and no right to seek further dismissed, and you may seek further review. Employer not notified. review. Employer is notified. You respond to the position Your employer sends a response to your complaint to Investigator interviews statement with a "rebuttal." both the OSHA investigator witnesses and collects You should use the and you. This is known as a rebuttal to give additional evidence as needed. "position statement." evidence to OSHA. If OSHA finds that retaliation You have 15 calendar days to did not occur, your case is Case dismissal is either request a review of the closed or "dismissed." upheld, or case is returned for dismissal by OSHA's further investigation or referral The investigator holds a closing Directorate of Whistleblower for potential litigation. conference with you to explain Protection Programs (DWPP). the recommendation to dismiss. Common reasons complaints may not be investigated: If OSHA finds that retaliation occurred, we refer your case - You filed too late (after the 30-calendar day filing period). to the U.S. Department of - Your employer's actions were unrelated to your concern Labor's Office of the Solicitor

about workplace safety or health.

the investigator's inquiries.

- You have significantly delayed or failed to respond to

for potential litigation. This is

known as a "merit case." You

cannot sue on your own.

whistleblowers.gov

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