

Can you be fired for having bad credit or filing bankruptcy?

With so many people these days facing an uncertain financial future and struggling with a decline in income and increase in expenses, as well as loss of equity in their homes, we as a nation are seeing credit scores dropping dramatically. Additionally, many homeowners have suffered a loss of income and have fallen behind on their mortgages, where the only way to save the home after being denied a loan modification is to reorganize their finances through a chapter 13 bankruptcy. One of the biggest fears that many consumers have when making the decision to file for bankruptcy or even realizing their debt increase is whether that can affect their job, which so few of us can afford to lose. The question then begs to be answered, “I can be fired for having bad credit or filing bankruptcy?”

The short answer to this question is that in general it is unlawful to take any adverse or hostile action in the workplace for filing bankruptcy. In fact, there is a specific Federal law (*11 U.S.C. § 525(b)*) that prohibits an employer from discriminating against an employee including firing that employee for filing bankruptcy. The fresh start that comes with protections under Title XI of the bankruptcy law is constitutionally guaranteed to all as a fundamental right. The law reads in particular,

“No private employer may terminate the employment of, or discriminate with respect to employment against, an individual who is or has been a debtor under this title [bankruptcy code] ... solely because such debtor ... is or has been a debtor under this title [bankruptcy code]

There have been numerous cases filed in the bankruptcy court as well as the Federal courts seeking damages against employers for just this type of discriminatory conduct of terminating an employee due to filing bankruptcy. For example, in the Bankruptcy case of *In re Hopkins*, 66 Bankr. 828, 831 (W.D.Ark. 1986), a bank terminated a valued employee after it discovered she filed a bankruptcy case. The court held that the employer terminated her employment due to seeking protection under the bankruptcy code. More specifically, the court applied the narrow interpretation of the law and found that if the bank could show that it discharged the employee for any reason in addition to her bankruptcy, the bank would win. However, the bank failed to prove that the employee was anything but a very valuable and competent employee. The company claimed that the employee, who worked in a small-town bank, would weaken its public perception and the public's trust in the bank. The court summarily rejected this argument, claiming that such a position would automatically act as an immediate defense for any such case and would render the relevant section of the Bankruptcy Code useless. The court found that the bank had violated the Code because it could not establish a reason, other than the employee's bankruptcy, to justify her termination.

The key to remember when asserting your employee rights relative to wrongful termination as a result of filing bankruptcy is that, you must be able to prove that the bankruptcy was the prevailing factor in your firing. In construing § 525(b), most courts have applied the plain meaning of the statute. In *Stockhouse v. Hines Motor Supply, Inc.*, 75 Bankr. 83, 85 (D.Wyo. 1987), for example, the court stated that "an employer may dismiss an employee for any cause unrelated to the employee's recourse to the bankruptcy

laws . . . [Thus], plaintiff's claim is defeated by a showing that his bankruptcy status was not the *sole reason* for his termination."

I know, many people are concerned that their boss will find out they filed for bankruptcy and think less of them. However, if you really think about it, most employers would probably welcome their employees filing for bankruptcy, rather than being stressed about how they are going to pay their bills. When employees are not worried about their financial issues and whether they will have a home, they will be more productive in the workplace. With the foregoing stated, if you feel that you have been the victim of discrimination in the workplace, don't hesitate to contact an employment discrimination attorney in your state.

This article on employment rights after filing bankruptcy was drafted by the [Labor Law Attorneys](#) at the Law Office of Goldstein and Clegg. For more information visit their employment law blog at <http://www.goldsteinandclegglaw.com/blog>