

**BETSY COMBIER**

**Advocatz - UFT**

[START Amy Arundell--Unauthorized  
Absence.mp3]

FEMALE VOICE 1: Hi. [crosstalk].

FEMALE VOICE 2: I just told I'm not. Why  
are you so worried? I'm just writing down my  
notes.

FEMALE VOICE 1: I'm not worried. I'm not  
worried.

FEMALE VOICE 2: I just talked to my  
husband. Okay.

FEMALE VOICE 1: No, no, I'm not worried.  
I'm just asking. [crosstalk]

FEMALE VOICE 2: Yeah. So, the answer is  
no.

FEMALE VOICE 1: Okay. Thanks. So,  
unauthorized absence simply means that it's an  
absence without pay, and, so, what happened is  
that people to be vaccinated by a date, and on  
that date, if they did not, if they were not  
vaccinated, they were not eligible to be paid.  
And, essentially, the department of education  
didn't take people off payroll completely on the  
very first day, because they knew that some  
people were still in the process of getting

vaccinated, and it's a lot of bureaucracy to put people on and off payroll. So, what they did instead was dock the people days' pay. So, some people, okay, got vaccinated on Monday, and then they came back on Tuesday. You know? And, so, it's not an unauthorized absence if you are considering it some sort of like disciplinary thing or some sort of like we don't know why you are absent. It simply means that you were docked pay for those days, and that's before they took you off payroll completely.

FEMALE VOICE 2: That's before they took-

FEMALE VOICE 1: But, you are not entitled to-

FEMALE VOICE 2: You said that's-

FEMALE VOICE 1: You are not entitled to be paid those days, because the vaccine, unless you were vaccinated.

FEMALE VOICE 2: Okay. So, let me ask about my specific situation. Okay? So, when I was checking my payroll portal, October 11<sup>th</sup>, my payroll, my pay stub, didn't have that label unauthorized absence when I was checking on October 11<sup>th</sup>. But, when I was checking on

October 27<sup>th</sup>, all of a sudden, it showed up.  
And, it says I have eight days unauthorized  
absence.

FEMALE VOICE 1: Those days are days that  
you are not entitled to pay if you are not  
vaccinated.

FEMALE VOICE 2: So, that means I'm not  
vaccinated—

FEMALE VOICE 1: [crosstalk] pay—

FEMALE VOICE 2: I'm not vaccinated, because  
I'm not entitled to get paid.

FEMALE VOICE 1: Nonvaccinated people had a  
deadline to get vaccinated.

FEMALE VOICE 2: True.

FEMALE VOICE 1: Right?

FEMALE VOICE 2: Yeah.

FEMALE VOICE 1: You were not vaccinated by  
that deadline, you were being taken off payroll.  
They didn't take people off payroll on the first  
few days of the mandate.

FEMALE VOICE 2: Yeah. I understand.

FEMALE VOICE 1: Because, they gave people a  
chance to get vaccinated and come right back to  
work, without the added bureaucracy of being

taken off payroll and put back on. But, you are not entitled to be paid for those days.

FEMALE VOICE 2: Okay. Can you tell me-

FEMALE VOICE 1: I don't know if what is causing you stress is the word unauthorized absence.

FEMALE VOICE 2: Of course. Another question is-

FEMALE VOICE 1: What I'm telling you--wait, let me finish.

FEMALE VOICE 2: Okay.

FEMALE VOICE 1: What I'm telling you is all that means is that you were docked the days. It doesn't mean that you did something wrong. They know why were you docked on those days, because they know who's vaccinated and who's unvaccinated.

FEMALE VOICE 2: Oh, okay. Thank you. So, that doesn't mean I'm doing something wrong.

FEMALE VOICE 1: Correct.

FEMALE VOICE 2: That unauthorized absence label doesn't mean I have any misconduct, correct?

FEMALE VOICE 1: Correct.

**Ubiquis**

FEMALE VOICE 2: Okay. Can you clarify with me regarding how they counted those eight days? If I found that on the 27<sup>th</sup>? So, they started to dock me from eight days before the 27<sup>th</sup>.

FEMALE VOICE 1: The system is a very rigid system. Things show up in payroll portal not necessarily in real time. The bottom line is you were not entitled to be paid those days. That's the bottom line. Once the vaccine mandate when in to effect, if you were not vaccinated, you were not entitled to be paid anymore. So, people were docked pay for a period of time, because they wanted to give people an opportunity-

FEMALE VOICE 2: I understand.

FEMALE VOICE 1: To get vaccinated and easily come back to work. Once it was clear, once they gave that time, then they took people off payroll and put them on the forced leave.

FEMALE VOICE 2: Okay. Since my last pay-

FEMALE VOICE 1: Nothing additional is happening to you there, because you aren't entitled to pay on those days.

FEMALE VOICE 2: Okay. So, because my last

paycheck was on October 15<sup>th</sup>, UE sent us emails saying that that's an extra paycheck we shouldn't receive.

FEMALE VOICE 1: That's correct.

FEMALE VOICE 2: Yes.

FEMALE VOICE 1: The vaccine mandate went in to effect.

FEMALE VOICE 2: So, I guess they started to count my-dock me from after October 15<sup>th</sup>, the next work day would be 18. So, if we count from October 18<sup>th</sup> to October 27<sup>th</sup>, that's eight days. Is that-do you think that's how they counted my eight days?

FEMALE VOICE 1: The vaccine mandate, no. The vaccine mandate-I'm just having a brain freeze for five seconds. The first day off payroll if you were unvaccinated-hold on one sec. Just give me one second.

FEMALE VOICE 2: Okay.

FEMALE VOICE 1: I'm just making sure I'm giving you the correct information. Hang on one second. Thank you for your patience.

FEMALE VOICE 2: No problem. Take your time.

FEMALE VOICE 1: Okay. So, October 4<sup>th</sup>, okay? October 4<sup>th</sup> was the first day that people who were unvaccinated could not report to work and were not going to get paid. October 4<sup>th</sup>. And, what the department of ed did is gave everybody two weeks, so they kept people on payroll, but they docked their pay. So, they didn't take you off payroll and put you on the leave until October 15<sup>th</sup>. Okay?

FEMALE VOICE 2: Yes.

FEMALE VOICE 1: Between October 4<sup>th</sup> and October 15<sup>th</sup>, they docked you the days, the work days. So, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup>, 11<sup>th</sup>, 12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup>. That would be ten days where you were docked.

FEMALE VOICE 2: Oh, okay.

FEMALE VOICE 1: Our payroll system is ahead. It's a forward-looking payroll system. So, if you don't take action by certain close dates, then it isn't reflected. So, that's why you got paid October 1 to October 15<sup>th</sup>, because the docking of the days happened after payroll closed. So, it was retroactive, but nothing's happening to you. And, in fact, you got a few

extra days of pay, because you got paid for the weekends. You got paid for the 2<sup>nd</sup> and the 3<sup>rd</sup> and the 9<sup>th</sup> and the 10<sup>th</sup>. So, you got four days of pay while they took the whole check back, they took the whole October 15<sup>th</sup> check back.

FEMALE VOICE 2: Um-hmm.

FEMALE VOICE 1: You are entitled to be paid October 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup>. So, of the October 15<sup>th</sup> check, you were entitled to be paid October 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup>, because you technically weren't ineligible for pay until the 4<sup>th</sup>.

FEMALE VOICE 2: Okay.

FEMALE VOICE 1: So, what you saw is you saw those—that has nothing to do with your CAR. It didn't come out of your CAR. You got docked those dates that you weren't entitled to be paid, and you weren't entitled to use your CAR. So, it had nothing to do with your CAR.

FEMALE VOICE 2: Okay. Okay, great. So, that's the second question, unauthorized absence. Yes. So, thank you for clarifying with me regarding this kind of absence, this label, from my payroll portal will not be considered as misconduct.

FEMALE VOICE 1: No. It's not considered misconduct. They know that the reason you're being docked is because of your non-vaccination status.

FEMALE VOICE 2: Okay. Third question, about 30-20A charge.

FEMALE VOICE 1: Okay. You're only going to be-the only potential for being brought up on 30-20A is if you refused to-if you elect not to select the leave option by November 30<sup>th</sup>. So, you have until November 30<sup>th</sup> to agree to stay on the leave, okay, and in exchange for agreeing to stay on the leave, you get health benefits for the rest of the year or until you get vaccinated and you agree to return in September, vaccinated, if the vaccine mandate is still in place. And, you agree not to take legal action. So, that is what you agree to when you say, yes, I want to stay on the leave. If you don't want to agree to any of that, then what happens is on December 1<sup>st</sup>, you go on an unauthorized leave, and unauthorized leave is a leave without pay and without benefits, and potentially, now this isn't something that the DOE said they were

going to do, but potentially, they could then bring you up on charges. And, what that means is they prefer charges against you. That's in writing. You get a letter. It says we're bringing you up on charges. Here's what the charges are. You contact the UFT. You say I got these charges. We arrange for an attorney, and an attorney takes over your case, and then there is a hearing before an arbitrator that an attorney represents you during.

FEMALE VOICE 2: So, these attorneys are from UFT, correct?

FEMALE VOICE 1: Not UFT. Our attorneys come from our state union called NYCUT.

FEMALE VOICE 2: Okay. Can we bring our own attorney?

FEMALE VOICE 1: Yes. You would then waive, you would waive the UFT attorney, and you would say you want to provide your own counsel. There's a process, if you want to do that, but you can't have both.

FEMALE VOICE 2: Okay.

FEMALE VOICE 1: You can't have an NYCUT attorney and have your attorney attend as well.

It's one or the other.

FEMALE VOICE 2: Okay. Alright. So,  
that's-

FEMALE VOICE 1: So, the unauthorized  
absences don't mean anything in terms of 30-20A.  
The only thing, the only reason why you would  
have a 30-20A charge is if you choose not to  
agree to the leave.

FEMALE VOICE 2: Okay. Then, I'm going-

FEMALE VOICE 1: Unauthorized absences are  
not going to result in you being brought up on  
30-20A charges.

FEMALE VOICE 2: Okay. So, that's referring  
to the time after December 1<sup>st</sup>, after I refused  
to take any options. Right?

FEMALE VOICE 1: December 1<sup>st</sup>.

FEMALE VOICE 2: Yeah, after December 1<sup>st</sup>-

FEMALE VOICE 1: November 30<sup>th</sup>.

FEMALE VOICE 2: Yeah. It's-

FEMALE VOICE 1: No, it's after November  
30<sup>th</sup>. You have till November 30<sup>th</sup>, and then  
December 1<sup>st</sup> is the day you go on the  
unauthorized leave, if you refuse the leave  
option.

FEMALE VOICE 2: Yeah. And, because of that unauthorized leave starting from December 1<sup>st</sup>, I may—

FEMALE VOICE 1: They could bring you up on charges.

FEMALE VOICE 2: Okay. Potentially.

FEMALE VOICE 1: Yeah. Potentially, but we don't know that they're definitely going to do that.

FEMALE VOICE 2: Okay. Do you know if they bring me on charge, what exactly the charge is? It's just unauthorized leave?

FEMALE VOICE 1: I don't know. I don't know what the charge will be. It could be insubordination. It could be absence. It could be unprofessional. I don't know.

FEMALE VOICE 2: Okay. Okay.

FEMALE VOICE 1: There's a mandate. There's a mandate.

FEMALE VOICE 2: I understand.

FEMALE VOICE 1: So, you're refusing to comply with the mandate, so in all likelihood, it'll be something like insubordination.

FEMALE VOICE 2: Okay.

FEMALE VOICE 1: Which is a form of misconduct.

FEMALE VOICE 2: Okay.

FEMALE VOICE 1: Unprofessional behavior.

FEMALE VOICE 2: Do you know, ma'am, anything about the regulation from Chancellor in June regarding the change of the definition for unauthorized absence?

FEMALE VOICE 1: Say that again.

FEMALE VOICE 2: Okay. It's a regulation from Chancellor Lisa Porter on June 14<sup>th</sup>, I think, regarding changing the definition of unauthorized absence. Do you anything about this?

FEMALE VOICE 1: Again, I've—there isn't any changes to the definition of unauthorized absence. I don't know what regulation you're referring to, but I'm explaining to you, again, that what you saw in your payroll portal is related to the fact that they kept you on payroll between October 4<sup>th</sup> and October 15<sup>th</sup>, but you were not entitled to be paid, so you were docked. The only way to dock people's pay is called an absence without pay, unauthorized

1 absence. And, it isn't authorized, because they  
2 didn't give you permission to be absent. You  
3 were forced. You were absent because you were  
4 not following the mandate. But, nothing's going  
5 to happen to you. That was actually something  
6 that the department of education did to try to  
7 help people come back more easily if they chose  
8 to be vaccinated in those first two weeks. If  
9 you are worried that you are going to be  
10 disciplined for those unauthorized absences, I  
11 am telling you unequivocally you are not.  
12 Discipline, if it is going to come with regard  
13 to the vaccine mandate, is going to come because  
14 of the decision that you make for November 30<sup>th</sup>'s  
15 deadline.  
16

17 FEMALE VOICE 2: Okay.

18 FEMALE VOICE 1: If you are on an  
19 unauthorized leave starting December 1, which  
20 would happen because you chose not to stay on  
21 the leave that was negotiated, that's when they  
22 might bring you up on charges, and it will only  
23 be because you did not agree to go on the leave.  
24 It won't be because you are coded as  
25 unauthorized absence mid-October. Nothing under

the table is happening to you. Everything that's happening is the way we agreed, the way it was worked out with the arbitrator to happen.

FEMALE VOICE 2: Okay. So, my last question to confirm on this, is according to what you said, nothing regarding unauthorized absence has been changed in the contract. Correct? The definition of unauthorized absence.

FEMALE VOICE 1: Correct.

FEMALE VOICE 2: Nothing has changed in the contract. The contract stayed as it was. Okay? Thank you, ma'am, so much for your call.

FEMALE VOICE 1: No problem.

FEMALE VOICE 2: Thank you. Okay.

FEMALE VOICE 1: Take care.

FEMALE VOICE 2: Bye.

FEMALE VOICE 1: Alright. Bye-bye.

[END Amy Arundell--Unauthorized Absence.mp3]

C E R T I F I C A T E

I, Colleen E. Daughenbaugh, certify that the foregoing transcript Amy Arundell—Unauthorized Absence) was prepared using standard electronic transcription equipment and is a true and accurate record to the best of my ability. I further certify that I am not connected by blood, marriage, or employment with any of the parties herein nor interested directly or indirectly in the matter transcribed.



Signature:

Date: October 17, 2023

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