

Veterans Return From War to Find Jobs Gone

Members of the National Guard and Reserve sign up to serve our country as needed, and when they return home many expect to find their civilian jobs waiting for them.

Unfortunately, that's not always the case.

Andrae Evans was an insurance sales manager and a member of the New York Army National Guard in 2004 when he was deployed to Iraq. When he was released from active duty in 2006 his former employer, MassMutual Financial Group, would not reinstate him to the position he left behind.

"I hoped to work things out with MassMutual and believed, wrongly, that they would do the right thing," said Evans, who's been unable to find work and recently took on a temporary National Guard assignment. He is now in Bagram, Afghanistan, and is suing MassMutual. The company says they were not required to reinstate Evans because he was an independent contractor, not an employee.

In another case, a prosecutor for the Baltimore City State's Attorney's Office, Andrew Gross, signed up for the U.S. Army Reserve in 2009, and when he returned from a six-month military training program found his job wasn't waiting for him when he returned.

"I was told I'd have to go to the back of the line to get my job back," said Gross, who sued the State's Attorney's office and settled the case late last year.

Mark Cheshire, a spokesman for the state's attorney's office, said the new state's attorney inherited the case from his predecessor and moved "to resolve the matter in an equitable fashion" when he took office.

National Guard and Reserve soldiers have faced numerous deployments and calls to duty during the years of war over the past decade, and many have returned to find they no longer had jobs they expected to return to. Some contend they have faced discrimination on their return, or retaliation for their military service.

Such actions are illegal under the Uniformed Services Employment and Reemployment Rights Act, or USERRA, which is supposed to help protect veterans when they return to the workforce.

Complaints brought under the law have escalated in recent years, mirroring the number of guard and reservists returning to their civilian lives.

According to data from the Employer Support of the Guard and Reserve, inquiries under the law started to skyrocket in 2010, more than doubling to 34,612, compared with a year earlier. The number of Guard and Reserve members who came off active duty during 2010 also spiked to 91,931 from 48,702 in 2009 before dropping to 45,968 last year, according to the Defense Department.

The number of USERRA complaints also dipped to about 30,000 in 2011, and shows signs of leveling off so far this year. But many veteran advocates expect the problem to continue as the drawdown from Afghanistan proceeds.

"I think as the wars have gone on it has challenged, both spiritually and pragmatically, civilian employers' approach to USERRA," said Ward Carroll, editor of the Military.com website and blog.

While he's empathetic to employers who've had to function without key employees during their deployments, he stressed the importance of complying with the law.

"It's part of your duty as an American employer to comply with USERRA and help citizen soldiers," he said. "Between now and 2014, these challenges to USERRA will continue."

Steven D. Silverman, the attorney who represented Gross in his suit against the Baltimore City State's Attorney, said he's seen a doubling in USERRA claims in his practice over the past year. "I attribute that to the economy and ignorance of the law by employers," he said.

Indeed, a March survey by Iraq and Afghanistan Veterans of America found that nearly 40 percent of veterans polled felt their employer didn't have enough information about their rights under USERRA.

Gross said he doesn't believe his managers wanted to undermine military service. "I think if they had an understanding of the law this wouldn't have happened," he said.

In the case of Evans, who worked for MassMutual, his complaint is that he was not reinstated in the higher position he got before being deployed, said Michael Macomber, an attorney with Tully Rinckey who is representing him. The law, he noted, doesn't just call for hiring employees back, but also keeping them in a similar position.

MassMutual said in a statement it is "fully complying" with USERRA and will "vigorously defend" its position in court.

A tight job market has exacerbated the problem in recent years, agreed government officials and legal experts. The unemployment rate among veterans who've been on active duty since September 2001 was 12.1 percent in 2011, compared to 8.2 percent overall, according to the Bureau of Labor Statistics.

Of course while business conditions may change, most employers want to do the right thing and comply with the law by hiring back returning veterans.

"I believe our employers by an overwhelming vast majority are living up to their responsibilities under USERRA," said Ronald Young, director of family and employer programs and policy in the Pentagon's Office of Reserve Affairs.

While Young acknowledged some of the uptick in USERRA complaints might have resulted from employers skirting the law, a big chunk had to do with better tracking of cases and more outreach to employers and employees by the government.

His agency recognizes employers that do a good job supporting National Guard and Reserve members by awarding them the Freedom Award. This year Intel Corp. made the list.

"We have tools in place to help managers fill temporary positions for whatever reason the position is open," said Lisa Malloy, a spokeswoman for Intel, which employs 100,000, including about 3,000 who have been in the military.

Mark Miera, 43, a National Guard member in New Mexico who's worked for Intel for 18 years, has had two deployments since 9/11, including a stint in Afghanistan that ended in December.

When he was overseas colleagues messaged him about a position as manager of construction at Intel, and before he came back to work he ended up with a promotion.

"Intel has always moved beyond the requirements of the law," he said. "They don't question protecting veterans returning from war and their positions."

