

Some Vets Get Pink Slips Instead of Tickertape

Last year Mike Vahey returned from a four-year enlistment, including duty in Iraq and Kuwait, where he was a sergeant on an Army diving team inspecting ports for bombs. When he returned home he expected his job as an engineer at a General Motors plant in Newport, Del., would be waiting for him.

“There wasn’t a doubt in my mind that my job would be there when I got back,” said Vahey, 40, who had worked for GM since 1997, most recently as a quality launch engineer. “I didn’t give much thought to it. I felt I was protected and had nothing to worry about.”

Unfortunately, instead of getting tickertape for serving his country Vahey got a pink slip. Soon after he got back, the plant where he worked was shuttered, leaving Vahey and hundreds of other civilian autoworkers jobless.

This might sound like another sad layoff story, but it isn’t. When it comes to returning veterans, there’s a federal law that calls for employers to go the extra mile to ensure that employees who take time off to make the ultimate sacrifice will have a job waiting for them when they’re done.

Despite the laws protecting vets, the prolonged wars in Afghanistan and Iraq and a struggling economy have combined to create a tough situation for returning soldiers when it comes to civilian reemployment.

“It’s harder today for returning vets to get their jobs back,” said Capt. Samuel Wright, the director of the Service Members Law Center for the Reserve Officers Association, and also one of the authors who helped write a key piece of veteran labor legislation called the Uniformed Services Employment and Reemployment Rights Act of 1994, commonly known as USERRA.

The law, which has been around in some form since the 1940s, was replaced by the USERRA Act in 1994 and essentially protects the jobs and benefits of vets, and also National Guard and Reserve members.

Those protections are getting harder to ensure in this troubled economy, Wright said, adding that, “employers try to thwart the law, or are ignorant of it.”

Making matters worse, he continued, are companies that employ vets (those in the National Guard and reservists in particular). They are having trouble coping with numerous and prolonged deployments that were not an issue before Sept. 11, 2001.

“Some people in the guard and reservists have been called up four or five times,” he explained.

“The employers are looking for ways to get out from under this law.”

Indeed, the number of complaints and inquiries by returning soldiers related to veteran employment laws is on the rise.

Last week, the Department of Labor, which administers USERRA, reported that complaints by veterans rose by 3 percent to 1,431 in fiscal year 2009, and they have been rising steadily, increasing by 25 percent since 2005.

Also, the Employer Support of the Guard and Reserve, or ESGR, an agency that comes under the Department of Defense and is the liaison between service members and civilian employers, has seen a spike this year in the number of inquiries the agency gets. ESGR also serves as a mediator between employers and vets if there is an issue regarding USERRA, and those cases are also expected to jump this fiscal year to a little over 3,000, up from 2,475 in the previous year, he said.

However, "that may not be a bad story," he cautioned. The agency, he said, has increased its outreach to service members and employers in recent years and some of that could be driving the rise in inquiries. But, he acknowledged, the rise in redeployments and the economy could also be contributing to the increase.

The majority of employers in the United States, he noted, do a great job re-employing returning reservists, which now comprise roughly 50 percent of the overall armed services. Nearly 55,000 employers, he pointed out, signed statements in 2009 that they would support returning veterans. About 193,000 U.S. employers currently employ reservist members.

"American employers remain patriotic and remain very supportive," he stressed.

One example of such support is the experience of Jim D'Alessio, a reservist who works for CDW, a technology solutions company based in Vernon Hills, Ill., that employs more than 6,000 workers. D'Alessio, 33, works out of the company's Shelton, Conn., office as an account manager and has been in the reserves for eight years. He was hired by CDW in 2008 and ten months later was deployed to Iraq as a corporal in logistics and transportation, returning to the U.S. in May of this year.

"When I first got news of deployment I was very nervous and hesitated about a week to tell my employer," he said. "I know people that didn't have a job to come back to after their deployment." But, he maintained, after talking to his manager and the human resources department he felt "100 percent confident" he wouldn't lose his job. In fact, when he was in Iraq during Christmas 2009, the CEO of the company, John A. Edwardson, sent out a company-wide e-mail telling employees to keep D'Alessio in their thoughts.

"I must have gotten over 600 e-mails from people throughout the company," he said.

The CEO also sent him a personal e-mail saying he would take him and his wife out to the restaurant of their choice when he returned from his deployment.

In August, Edwardson flew to Connecticut from Chicago and took D'Alessio, his wife and some co-workers to Carmen Anthony Steakhouse in New Haven, Conn.

The transition back to work was easy, he said, because his coworkers helped him out and the company was so supportive.

But, he stressed, "my experience is unfortunately atypical." He said he's seen many examples of fellow vets at other companies who were unable to come back to the jobs they left behind, or managers found pretexts to get rid of the workers who were deployed. Vahey, the former GM engineer, believes he should not have lost his job.

He has hired a law firm and is considering his legal options against the auto giant. He believes the company did not live up to the letter of the USERRA law because the company never looked at other options for him when he returned from war, such as relocating him to another plant. To pursue his rights, Vahey first filed a complaint with the Labor Department. (The Labor Department would not comment on the case.)

Vets have the choice to go to the Labor Department or ESGR, but neither agency has enforcement powers, according to Wright. You can get these agencies to try to get the company to comply, but if your case is not resolved in your favor you can request to have it turned over to the Department of Justice, or hire your own lawyer.

In the case of Vahey, he signed a release form after he found out about the layoff. He said he felt pressured to sign a release after he was notified of his layoff because he had no other options.

"I signed the release because I needed six months' salary," he said, adding he had a mortgage and family to support.

GM spokesman would not comment on whether any other options were discussed with Vahey, beyond the severance.

"Like many other employees, Mr. Vahey was offered a separation package," he said. "He accepted the package and the benefits that went with it, and signed a release of his employment rights with GM."

"The release does not free them of their initial denial of USERRA rights," Vahey maintained.

A Labor Department investigator, he said, told him that one of his options was to hire an attorney, and he contacted Tully Rinckey, a law firm that specializes in veteran employment issues.

"Since Iraqi Freedom, there's been a large uptick in these cases," said Steven Herrick, the managing partner of the firm. Many vets, he said, aren't familiar with the laws protecting them or where else to go for help.

In Vahey's case, he explained, he got back from a four-year deployment and was thrust in a situation where he had to make a decision without figuring out what his rights were. "We think the decision needs to be reviewed," he said about Vahey's termination.

While Vahey isn't sure how things will turn out in the end, he's hoping his case shines a light on the problem.

"Employers, especially one of largest in the U.S. that's majority owned by taxpayers, should look out for their veterans and do the right thing," he said.