

COMMON LAW TEST FOR DETERMINING WHETHER A WORKER IS AN EMPLOYEE

Employee	Independent Contractor
Required to comply with employer's instructions about when, where and how to work	Sets own hours; determines own sequence of work
Works exclusively for the employer	Can work for multiple employers; services available to the public
Hired by the employer	Is self-employed
Subject to dismissal; can quit without liability	A contract governs how the relationship can be served
Has a continuing relationship with the employer	Works by the job
Work done personally	Permitted to employ assistants
Performs services under the company's name	Performs services under the worker's business name
Paid a salary; reimbursed for expenses; participates in company's fringe benefits programs	Payment by the job; opportunity for profit and loss
Furnished tools, equipment, materials, and training	Furnishes own tools, equipment, and training; substantial investment by worker
If an outside salesperson: Company provides leads, sets terms and conditions of the sale, assigns a territory, and controls the sales process	Controls the sales process and terms