



A Guide for Employers:

Termination in Alberta

Managing employee termination in the workplace

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PENINSULA

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It is crucial that employers have a thorough understanding of their legal rights and the legal rights of their employees, regarding termination. Understanding what Alberta legislation says on termination, enables employers to handle these situations in compliance with the Employment Standards Code; and in such a way that results in minimum disruption in the workplace.

When an Employer Terminates an Employee

When terminating an employee, employers are obligated by law to give termination notice, termination pay, or a combination of the two.

If an employee is being terminated with just cause, employers are no longer obligated to provide termination notice or termination pay.



Termination Notice

To be considered a valid termination, the notice must be given to the employee in writing and have a termination date. The amount of termination notice an employee is due, is dependent on the length of time they have been with the company. Below, is the amount of termination notice an employee is due; dependent on the duration of their employment:

- 1 week = Over 90 days but less than 2 years
- 2 weeks = 2 years but less than 4 years
- 4 weeks = 4 years but less than 6 years
- 5 weeks = 6 years but less than 8 years
- 6 weeks = 8 years but less than 10 years
- 8 weeks = 10 years or more

As mentioned above, employers can terminate an employee with written notice, termination pay or a combination of both. When providing an employee with written notice, employers must consider that employees have to be able to work and earn income throughout their notice period. An employee's notice period cannot begin if the employee is:

- On vacation
- On leave
- On temporary layoff
- On strike or lockout
- Off work for medical reasons

The following are situations where employers are not required to give termination notice:

- Dismissed for just cause
- Employed on a seasonal or temporary basis
- Employed for 90 days or less

- In certain industries (e.g., working on-site in the construction industry)

Termination with Just Cause

Termination with just cause is the most serious form of termination. Employers can terminate with just cause when an employee commits a serious act of misconduct/ breach of contract (for instance, stealing, assaulting a co-worker, or committing fraud).

With “just cause” the employer is not required to provide the employee with termination notice, severance pay or pay in lieu of notice.

Laid Off

An employee is considered laid off when their work hours are reduced to the point that they are earning less than 50 percent of their regular weekly wages.

Layoffs can be considered termination of employment and employees are entitled to written notice and/ or compensation pay.

When Employers Do Not Have the Right to Terminate Employment

Employers typically have the right to end an employee's employment at any time, as long termination notice or pay in lieu is provided; however, they cannot terminate an employee in the following situations:

- On grounds protected by the Alberta Human Rights Act
- Is taking a job protected (e.g., maternity or parental leave)
- Made a request for anything the employee is entitled to under the Employment Standards Code
- Is currently or may give evidence at any inquiry, proceeding or prosecution under the Employment Standards Code

- Is currently facing or may face garnishment

Paying Out Final Earnings

Whenever an employee's job ends; the employer is responsible for paying out final wages. Final wages are everything the employer owes the employee, which can include overtime, statutory holiday pay and regular wages. Final payment must be paid to the employee:

- Within 48 hours after the employees last day, when employment is ended by the employer
- Within six days after the employee's last day, when the employee quits.

When the Employee Ends the Employment Agreement

Written Notice

When an employee terminates their employment contract, they are required to give their employer written notice. In this situation, the amount of notice the employee must give is determined by the length of their employment.

- 1 week = More than 90 but less than two years
- 2 weeks = 2 years or more

It is important to note, for an employee's termination notice to be valid, the following criteria must be met:

- Written and addressing the employer;
- Given to the employer; and
- For the correct notice period or longer

Below, are situations when the employee quitting is not required to give their employer notice:

- Been employed for 90 days or less.
- The employment contract cannot be executed due to unforeseen or unpreventable causes out of the employee's control.

Termination Pay

In the scenario that an employer wants to immediately terminate an employee, without having them work through a notice period, the employer has the option of providing them termination pay (the wages they would have earned, had the employee worked through their notice period).

Employer FAQs

What are employers asking about termination in Alberta?

1. Can I terminate an employee for making a complaint to Employment Standards?

No. If an employer tries to terminate an employee for making a complaint to the employment standards act that would be considered wrongful dismissal and the employee could make a claim against the employer.

2. What is “termination with cause”?

Termination with just cause, is when an employee has committed a serious breach of contract or misconduct; giving their employer adequate reason to end their employment contract. When an employee is fired with “just cause”, the employer is not required to provide notice or termination.

3. What happens if I give an employee termination notice but ask them to keep working past the end of the notice period?

If an employee continues to work past the notice period, the notice is cancelled, and the employee is still employed. To terminate the employee, a new notice period would need to be introduced.

4. Can an I terminate an employee on temporary layoff?

Yes, employers can terminate an employee on temporary layoff; however, they are required to provide termination pay.

Furthermore, in Alberta, a temporary layoff cannot exceed 60 days. If this happens the employee is considered terminated and the employer must pay termination pay.

5. When an employee quits, do they have to give termination notice?

In British Columbia, employees are not required by law to give termination notice when they quit.

6. What is “constructive dismissal”?

A constructive dismissal is when an employee resigns due to the employer making a fundamental change to their employment contract or due to the work environment becoming so hostile, the employee no longer feels comfortable working.

If it can be proved that an employee was subject to a constructive dismissal, the employer will be obligated to provide the employee with a severance package.



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