

## **Termination of Employment (Before April 30, 2007)**

Employers or employees can decide to end an employment relationship at any time. In most cases, the legislation requires that the person ending the employment give notice.

### **What is termination of employment?**

Common expressions for termination of employment include:

- fired
- quit
- let go
- discharged
- dismissed
- permanently laid off
- terminated

### **Is a layoff the same as termination?**

A layoff is a temporary break in employment, where employees are likely to return to work. Employees who are permanently laid off have been terminated. Employers do not need to provide notice to employees that they are being laid off. However, if the layoff is longer than eight weeks in a 16-week period, the layoff becomes a termination and notice is required.

### **Do employers and employees need to give notice of termination?**

Employees or employers who want to end employment must give the other party who has at least one pay period notice before the last day they plan to work if the employment has been over 30 days. For most employees this is two weeks.

### **Can employers pay wages instead of providing notice of termination?**

Yes, employers can either allow employees to work out the notice period, or pay wages in lieu of notice. Employers can also allow employees to work part of the notice and pay wages in lieu of notice for the remainder.

## **Can employers keep employees' wages if employees terminate without notice?**

Employees are required to work out their notice. If they refused to do so, employers can keep all wages, vacation wages, overtime or general holiday pay equal to one pay period of notice. Employers must file a claim with Employment Standards if they intend to keep wages. Employers who have more than one pay period of wages must pay all outstanding wages to employees within 10 days of termination.

## **Are employees required to pay the employers if they leave without notice?**

If employees terminate without notice, employers can file a claim with Employment Standards. If the branch staff determines that employees should have given notice of termination to pay back to the employers wages equal to the amount of notice they should have worked.

## **Is there a no-notice period?**

In the first 30 days of employment the legislation states that employers and employees have the right to end the working relationship without notice.

## **Can employers establish a different notice policies?**

Yes, until April 30, 2007, employers can create different notice policies that suit the needs of their business. The new notice policy must apply to the employer and the affected employees the same way. For example the employer could not establish a policy where the employer does not need to provide notice, but the employees must provide two weeks' notice.

## **How does employers create alternate notice policies?**

Employers must provide a copy of the notice in writing to the effected employees. It is a good practice to have each employee sign a notice stating they read the policy. Employers must also post the policy in a conspicuous place in the workplace. The policy must be posted for 30 days before it goes into effect. Each new employee must be provided with a copy of the notice policy.

The alternate notice policy will only be effect until April 30, 2007. Changes in The Employment Standards Code will not allow alternate notice policies after that date.

## **Are there times employers and employees do not need to give notice of termination?**

There are some cases where employers or employees, do not need to give notice of termination:

- when employment is for a specific length of time or a specific task or job
- when it is only casual employment and the employees have substantial control over whether they accept shifts or not and are not be penalized by employers for choosing not to work
- employees act in a manner that constitutes wilful misconduct, disobedience or wilful neglect of duty and

the behaviour is not condoned by the employer

- if employees act in a manner that is violent in the workplace or is dishonest in the course of employment
- when employees are placed on a temporary layoff

Employers who want to terminate employees without notice must note that the exemptions can be complex and each case needs to be examined individually to determine if notice is required.

## **Do employers need to have just cause to terminate employees?**

Under employment standards legislation employers and employees can terminate employment at any time, for any reason if they provide notice of termination. Just cause may be relevant in a civil action, but The Employment Standards Code does not require a reason for a termination.

## **Do other laws affect termination?**

Yes; human rights, workplace safety and health and collective bargaining legislation all have provisions that prevent discrimination and offer some job protection. Contact these organizations directly to see if they apply in your situation. More information can be found on the [Other government agencies](#) page. There is also civil law covering employment and a lawyer should be consulted about civil law affecting employment.

## **Do notice provisions cover construction?**

No, employees who work in the construction industry are excluded from notice of termination requirements. For more information, see the [Construction industry](#) page.

## **How much notice must employers give to terminate a large group of employees?**

Employer who intend to terminate a group of 50 or more employees within four weeks must provide more notice than for an individual termination.

Number of Employees	Notice Required
50 to 100	10 weeks
101 to 299	14 weeks
300 or more	18 weeks

## **For more information contact the Employment Standards Branch at:**

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Fax: 204-948-3046

E-mail: [Employmentstandards@gov.mb.ca](mailto:Employmentstandards@gov.mb.ca)

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This information is intended as a guide only and is not a legal opinion. For complete information refer to the

*Employment Standards Code* or other relevant legislation or contact us for more details.

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