

## Just Cause

Employers have the right to terminate employees but must give notice that the employment is ending. An exception to the notice requirement applies where the employer can prove just cause. Just cause refers to conduct that is of such a serious nature or extent that it essentially breaks the employment relationship. Employment Standards investigates complaints to determine if the employer had just cause for the termination.

### What is notice of termination?

Notice of termination is the period of time an employee or an employer is required to give the other before ending employment. Employees continue to work their regular hours and perform their regular duties at the same rate of pay during the notice period.

### Do employees need to give notice of termination?

Yes. The amount of notice depends on how long the employee has been employed by the same employer:

| <i>Period of Employment</i>             | <i>Notice Period</i> |
|---|----------------------|
| At least 30 days but less than one year | One week             |
| At least one year                       | Two weeks            |

### Do employers need to give notice of termination?

Yes. The amount of notice depends on how long the employee has worked for the same employer.

| <i>Period of employment</i>                   | <i>Notice period</i> |
|---|----------------------|
| At least 30 days but less than one year       | One week             |
| At least one year and less than three years   | Two weeks            |
| At least three years and less than five years | Four weeks           |
| At least five years and less than ten years   | Six weeks            |
| At least ten years                            | Eight weeks          |

Employers can either allow the employee to work out this notice period, or pay wages in lieu of notice for the same number of weeks, or a combination of both.

## **What if an employer believes there is just cause to terminate an employee?**

Just cause provides an exception to the notice requirement. The onus is on the employer to show just cause. Employers who terminate an employee for just cause must be able to prove the employee's conduct or behaviour was so serious in its nature or extent, it broke the employment agreement.

## **What are some examples of possible just cause?**

The circumstances and specific facts of each case must be considered to determine if there is just cause. Just cause can vary depending on the employee's conduct, the type of business, the employee's position, and the employer's policies or practices, among many other factors. The following are some examples that may constitute just cause:

- Theft
- Dishonesty
- Violence
- Wilful misconduct
- Habitual neglect of duty
- Disobedience
- Conflict of interest

## **What do employers need to consider before deciding there is just cause?**

### **Serious Circumstances**

Each situation must be looked at on a case by case basis. Very serious acts, such as those involving wilful misconduct or violence, might happen once and be sufficient to show just cause. These types of behaviours can damage the employment relationship to the point it cannot reasonably continue.

### **Other Circumstances**

Other behaviours, such as being late, missing work, and poor performance are not necessarily serious enough to terminate without notice. For just cause to apply in these cases, the employer must be able to show appropriate steps were taken to correct the behaviour, including:

- Making the employee aware of the expectation
- Providing the employee with reasonable time and resources (where appropriate) to achieve the necessary standard, and
- Warning the employee about the specific consequences for continuing the unacceptable behaviour

In short, employees should not be surprised by a termination for just cause in these types of circumstances.

## **What if the employer condones the behaviour?**

Employers must consistently apply workplace rules and practices to terminate an employee without notice. It is difficult to prove just cause when the employer does nothing to change a particular behaviour or has excused the same behaviour in the past.

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

Employers are not allowed to terminate employees because they have taken or requested a legislated leave of absence from work. More information can be found on the [Unpaid Leaves](#) fact sheet.

*The Human Rights Code, The Workplace Safety and Health Act, and The Labour Relations Act* all deal with issues around ending employment. More information about other government departments can be found on the [Other Government Support](#) page.

There is also civil employment law covering termination issues. Employers and employees should consult a lawyer if they have questions about civil law.

## **For more information contact Employment Standards:**

Phone: 204-945-3352 or toll free in Canada 1-800-821-4307

Fax: 204-948-3046

Website: [www.manitoba.ca/labour/standards](http://www.manitoba.ca/labour/standards)

This is a general overview and the information used is subject to change. For detailed information, please refer to current legislation including The Employment Standards Code, The Construction Industry Wages Act, The Worker Recruitment and Protection Act, or contact Employment Standards.

**Available in alternate formats  
upon request.**

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