



TERMINATING EMPLOYEES

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This Fact Sheet reviews terminating (firing) employees.

Termination means ending the employment relationship, commonly known as firing, dismissing, or letting someone go. Termination is not to be taken lightly. While employers can terminate employees at any time, their reasons for doing so may give rise to claims for wrongful termination.

Terminations cannot be retaliatory or in violation of human rights law. Retaliation means dismissing an employee for punishment or revenge. Examples include firing an employee who files a workplace safety claim (or for raising the safety issue) or because the employee was pregnant or on maternity leave.

Employers may terminate any employee “without cause” so long as they provide notice or pay in lieu of notice. Without cause means there is no specific reason for the termination. Whether with or without cause, employers must give notice of termination to the affected employee. Employers can require a terminated employee to work until the end of the notice period, e.g., two weeks, or provide them with pay (compensation for length of service) instead of notice.

Prior to termination, best practice is to confirm that any underlying human rights issues are addressed.

Employers may also terminate an employee for just cause without any notice. Just cause means an employee has done something seriously incompatible with the continuation of the employment relationship. Examples include intentionally disregarding duties (non-performance), and dishonesty such as stealing (behaviour). It can be very difficult to prove just cause for terminations. Performance or behavioural issues must be documented.

Terminating an employee for cause is a serious matter presenting a risk to the employer on many levels. Firing someone may lead to claims made in many different areas including employment standards, civil litigation, human rights, and employment insurance. In this situation, seeking legal advice may be the appropriate course of action.

It is possible to indirectly terminate an employee through what is called a constructive dismissal. Constructive dismissal means changing the work situation in such a fundamental



way that, in law, it is the same as terminating the employee. For example, a demotion (reducing a supervisor to a position with no supervisory authority) or changing of job duties is a fundamental change. If the employee does not accept the changes, they have the same rights as someone who was terminated without cause, to challenge the employer's decision.