



TERMINATING AN EMPLOYEE (Just Cause/Without Cause/Layoff)

Terminating an employee is a challenging task for any employer and should never be taken lightly. Whenever possible, attempt to resolve issues before proceeding by completing Performance Appraisals, Written Warnings and completing letters of Expectation (all available at [Retention | Belong Sask HR Concierge](#)) when required, as rehiring and retraining are costly.

Employers must respect the dignity of departing staff and ensure all dismissals comply with legal requirements and business needs. Documentation is key in this area. Unfairly treated employees may pursue legal action or file complaints, so it's wise to consult an employment lawyer due to constantly changing laws.

JUST CAUSE

Termination for cause is a termination without notice or pay in lieu of notice. The burden of proving just causes rests with the employer. Just cause includes basic violations of the employment relationship, including criminal acts (such as theft from the employer), gross incompetence, willful misconduct or a significant breach of a workplace policy. An employer may also have just cause to dismiss an employee for repeated minor infractions of workplace rules, or unsatisfactory performance that does not improve despite clear warnings – which should be outlined in a progressive discipline policy. Whether or not you have just cause for dismissal will always depend on the specific circumstances of the case. If you suspect that you may have to terminate an employee for just cause, **it is important that you document and track, in writing, the infractions**. Regardless of what your progressive discipline process consists of, it is important to maintain complete records, including dates of meetings and discussions, follow-up training sessions, written and verbal warnings, suspensions and performance reviews.

Document your conversations and who said what to whom. Most progressive discipline processes will include a series of corrective actions that range from informal meetings to suspensions.

WITHOUT CAUSE

When dismissing an employee without cause, you are required to provide reasonable notice of termination or “pay in lieu of notice” or “termination pay”. Additionally, the employer can choose to provide a combination of both written notice and pay.

There are minimum requirements as dictated by Saskatchewan Employment Standards. However, remember that these are minimum requirements. The employee may be entitled to longer notice or more pay in lieu of notice through common law (standards set by the Courts in wrongful dismissal cases). Entitlement will often depend on the specific circumstances, the age of the employee, how long the employee has worked for the organization, and the position level.

INDIVIDUAL LAYOFF

A “layoff” means the temporary interruption of the services of an employee for a period longer than six consecutive work days.

Minimum Notice Employees Must Provide Employers

Employees with at least 13 weeks of service with the employer must give written notice at least two weeks before leaving the job. The notice must state the last day on which the employee is ending their employment.

Minimum Notice Employers Must Provide Employees

Employees who have been employed by the employer for more than 13 consecutive weeks must be given written notice of a clear and specific date of layoff or termination by the employer or pay instead of notice. The minimum amount of notice or pay instead of notice depends on an employee's length of employment with the employer.

NOTE: During the notice period, the employee's pay rate and normal hours of work cannot be reduced.

Rights of Employees Under Common Law

Notice requirements set by employment standards are legislative minimums. Employees, especially long-term employees, might be entitled to more notice or pay instead of notice under common law. This amount of reasonable or "common law" notice is not enforced under employment standards. Employers and employees should consult a lawyer for more information.

Notice requirements after change of ownership

If an employee is still employed at a business after a sale, lease or transfer to a new employer, their service is maintained when determining the amount of notice they are entitled to if they are later laid off or terminated. Employees are entitled to notice or pay instead of notice based on how long both employers employed them at the same workplace.

Protection of Workers Who are Ill, Injured or on Workers' Compensation

No employer may lay off or terminate an employee due to illness or injury of the employee or illness or injury of the employee's immediate family member who is dependent on the employee.

Employers are prohibited from firing employees who are absent due to sickness or injury for up to 12 days in a calendar year or 27 weeks in a period of 52 weeks if the illness or injury is serious or they are receiving worker's compensation benefits. Employees must have 13 consecutive weeks of employment for this protection, unless the employee's illness or injury is related to a public health emergency in Saskatchewan.

In addition, no employer may lay off, terminate or take any other [discriminatory action](#) against an employee for any other protected reason under the legislation's discriminatory action protections. The only exception to this protection is where the employer can establish a good and sufficient other reason.

The Saskatchewan Human Rights Code

Complying with employment standards will not protect an employer who is found to have discriminated against an employee for a prohibited reason under *The Saskatchewan Human Rights Code*.

The Saskatchewan Human Rights Code prohibits employers from terminating employees on the basis of race or perceived race, creed, religion, colour, sex, sexual orientation, family status, marital status, disability, age, nationality, ancestry, place of origin or receipt of welfare. Contact the Saskatchewan Human Rights Commission toll-free at 1-800-667-9249 or [visit the Saskatchewan Human Rights Commission website](#) for more information.

LEGAL ADVICE

There are a few other factors that could be involved in a dismissal, so it is always best to contact an employment lawyer for advice before making a final decision. The fee to discuss a case with a lawyer could be minor vs. having to defend your case in court.

FOR MORE DETAILS VISIT:

[Individual Layoff or Termination | Layoffs and Termination | Government of Saskatchewan](#)