

## Termination of Employment

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 employees need to give notice of termination?

Yes, employees who have been employed by an employer for at least 30 calendar days but less than one year, must give at least one week's notice before the last day they plan to work. After employees have completed one full year with the same employer, at least two weeks notice is required.

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

Yes, when employers wish to terminate employees they must give notice of termination or pay wages equal to what would normally be earned during the notice. This is often called wages in lieu of notice. The notice period varies depending how long employees have worked for the same employer.

## How much notice of termination must employers give to their employees?

The amount of notice employers must provide employees depends on the length of time that employee has worked for them.

Period of employment	Notice period
at least thirty 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 still 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 is a period of employment?

The length of time from when an employee starts with an employer, until the day the employment ends.

The period of employment also includes periods of temporary interruption in employment such as a layoff, an unpaid leave, seasonal employment and when an employee returns to work for the same employer after a break of less than two months.

## 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?

No. Effective April 30, 2007, employers cannot keep wages from employees who quit without notice. Employers must pay employees all earned wages within 10 days of the last day of work.

## Is there a no-notice period?

When the period of employment has been less than 30 days the legislation states that employers and employees have the right to end the working relationship without notice, may be longer with a collective (union) agreement.

## Can employers have notice policies for their businesses that are different from the legislation?

No. Effective April 30, 2007, employers cannot have alternate notice policies. A notice policy set under the previous legislation is not valid. The only exclusion is a unionized workplace, where a collective agreement has a

probationary period that is one year or less.

## **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 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
- If the employer acts in a manner that is improper or violent toward the employee

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. Their contact information can be found on the [Other Government Support](#) 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?**

Employers 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:**

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

Fax: 204-948-3046

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

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* and *The Worker Recruitment and Protection Act*, or contact the Employment Standards Branch to ask for advice.

Date Published: June 10, 2010