



A Guide for Employers:

Termination in British Columbia

Managing employee termination in the workplace

BC

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PENINSULA

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As an employer, do you thoroughly understand your legal rights and the rights of your employees, when it comes to termination? Understanding British Columbia's legislation on termination, enables employers to respond to an employee's resignation or terminate an employee in compliance with the Employment Standards Act. Use this guide to understand how employers should navigate termination.

Understanding employee rights is a fundamental component of effective management and to the correct function of your business.

Termination of an employee occurs when they are fired or laid off by the employer, or when the employee resigns.



When an Employer Terminates an Employee

Depending on the situation surrounding an employee's termination, there are different forms of termination that an employer has access to. The follow are the various forms of termination in British Columbia:

Termination without cause

In British Columbia, employers are not required to provide an employee with a reason for their termination; however, employers cannot terminate employees on grounds protected by the Employment Standards Act or the Human Rights Code.

When terminating without cause, if the employee has been employed for at least three consecutive months, they are entitled to termination notice or termination pay, or a combination of both.

Termination with just cause

Termination with just cause is the most serious form of termination. Employers can terminate with just cause when an employee commits a serious act of misconduct/ breach of contract (for instance, stealing, assaulting a co-worker, or committing fraud).

With "just cause" the employer is not required to provide the employee with termination notice, severance pay or pay in lieu of notice.

Laid off

An employee is considered laid off when their work hours are reduced to the point that they are earning less than 50 percent of their regular weekly wages.

Layoffs can be considered termination of employment and employees are entitled to written notice and/ or compensation pay.

Written Notice

As mentioned above, employers can terminate an employee with written notice, termination pay or a combination of both. When providing an employee with written notice, employers must consider that employees must be able to work and earn income throughout the notice period. An employee's notice period cannot begin if the employee is:

- On vacation
- On leave
- On temporary layoff
- On strike or lockout
- Off work for medical reasons

Termination Pay

If an employer does not want the employee being terminated to work through their notice period, the employer has the option of providing them termination pay (the wages they would have earned, had the employee worked through their notice period). This allows the employer to terminate the employee immediately without notice.

Paying Out Final Wages

Whenever an employee's job ends; the employer is responsible for paying out final wages. Final wages are everything the employer owes the employee, which can include overtime, statutory holiday pay and regular wages. Final payment must be paid to the employee:

- Within 48 hours after the employees last day, when employment is ended by the employer
- Within six days after the employee's last day, when the employee quits.

How to calculate termination notice and pay

The amount of termination notice or pay that an employee is eligible for is based on the length of their employment.

Determining termination notice & pay:

- Three months of employment = **one week of notice and/or pay**
- One year of employment = **two week of notice and/or pay**
- Three or more years of employment = **three weeks of notice and/or pay, plus one week of notice/pay for each additional year of employment**

When an Employee Chooses to Resign/Quit

Termination can also take the form of an employee resigning/quitting from their position. Employees are not required to give notice; however, employers generally appreciate the additional time to prepare for the employee's transition out of the company. Typically, when an employee is leaving on good terms, they will provide a couple weeks notice.

When an employee quits, the employer is no longer obligated to provide the termination pay that comes with being fired.

Employer FAQs

What are employers asking about termination in BC?

1. What is “termination with cause”?

Termination with just cause, is when an employee has committed a serious breach of contract or misconduct; giving their employer adequate reason to end their employment contract. When an employee is fired with “just cause”, the employer is not required to provide notice or termination.

2. What happens if I give an employee termination notice but ask them to keep working past the end of the notice period?

If an employee continues to work past the notice period, the notice is cancelled, and the employee is still employed. To terminate the employee, a new notice period would need to be introduced.

3. Do I always have to provide termination notice or pay when terminating an employee?

Unless the employee is being terminated with cause, employers are required to provide termination notice, termination pay, or a combination of the two.

4. When an employee quits, do they have to give termination notice?

In British Columbia, employees are not required by law to give termination notice when they quit.

5. What is “termination pay”?

Termination pay is pay that is given in place of a required notice period. For example, if an employer does not want the employee being terminated to work through their notice period, the employer can provide them termination pay instead.



Learn More

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