

Termination of Employment

Employment relationships can be ended by either an employer or employee. In most cases, the legislation requires the person ending the employment to give notice.

Is a layoff the same as termination?

No. A layoff is a temporary break in employment, where employees are likely to return to work. 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.

What is notice of termination?

The notice period is the amount of time an employee or an employer has to give the other before ending employment. The employee continues to work their regular hours and perform their regular duties during the notice period.

Do employees need to give notice of termination?

Yes. The amount of notice depends on how long they've been employed by the same employer:

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 employees have worked for the same employer:

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 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 (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.

Is there a period when no notice is needed?

Yes, employers and employees do not need to give notice when the employee has worked less than 30 days. Employers are not allowed to extend or change this period, unless it is negotiated in a collective agreement with a union.

What if an employer does not want an employee to work out the notice period?

Employers can instead pay the amount of wages the employee would have received if they had worked out the notice period. This is often called 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.

To calculate wages in lieu for employees who work varying hours every week, take an average of weekly hours work over the last 6 month (approximate) period.

Are there situations when employers or employees do not need to give notice of termination?

The following are some cases where notice of termination is not required:

- when employment is for a specific length of time or a specific task or job
- if the employee has substantial control over whether they accept shifts or not and are not penalized by employers for choosing not to work
- when the employer can prove wilful misconduct, disobedience, wilful neglect of duty, violence in the workplace or dishonesty 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
- when the employee works in the construction industry

Employers must consider each situation on a case by case basis when deciding to provide a notice period to an employee.

Can employers keep employees' wages if employees terminate without notice?

No. Employers must pay out all wages the employee has earned up until the last day worked. Employers must pay employees all earned wages within 10 days of the last day of work. An employer can pursue any lost money through civil court.

Can employers have a different notice policy?

An employer cannot give less than the notice periods described above. They are the minimum standard for notice. Any agreement between an employee and employer that is less than the minimum is not valid.

The only exclusion is in a unionized workplace, where a collective agreement exists.

Do other laws affect termination?

Yes. Employment Standards is only one thing employers and employees should consider when ending employment. The Human Rights Code, The Workplace Safety and Health Act and The Labour Relations Act all deal with ending employment too. There is also civil employment law covering termination issues. Employers and employees should consult a lawyer if they have questions about civil law. More information about other government departments can be found on the [Other Government Support](#) 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 notify the Minister of Labour and Immigration and 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 Employment Standards:

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

Fax: 204-948-3046

E-mail: employmentstandards@gov.mb.ca

Website: 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
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