

TERMINATION OF EMPLOYMENT

PRE-LISTENING: Brainstorm with your partner. What common words are used when an employee decides to leave the employer, or when the employer decides that the employee has to leave? Use the pictures below as clues to give you some ideas of the expressions or idioms related to termination of employment. (For example, the picture of "Arnold Schwarzenegger" in "Terminator" might remind you of the word "to terminate")



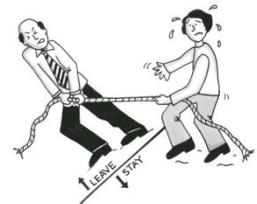
TERMINATION OF EMPLOYMENT

It is often difficult to leave a job. Jobs can end for four main reasons. It can be the employee's decision, an employer's decision, a decision that they make together, or a decision that the company needs to make.

Employees can decide to leave a job. An employee usually tells the employer. They tell the employer that they want to leave. They need to _____ at least one week's _____ if they have been working there for less than one year. One week after they tell the employer, they can leave the job. When they _____ or _____, they don't work for the employer anymore. If the employee has been working with that employer for more than one year, they must give at least two weeks' notice.

Sometimes an employee doesn't tell the employer. They _____ _____. They might get angry at the employer and _____ _____. This means they walk out of the building and never work for the employer again. Or, they might be a new employee. When they are a new employee they have 29 days to decide if the job is a good job for them. When they have worked less than 30 days they can tell the employer that they will not come to work the next day. They do not have to _____.

The employer can decide that the employee is not a good worker for the company. When the employee has worked less than 30 days, the employer can tell the employee to go home and not come back. They might be angry. They can tell the employee " _____ !", and the employee has to leave. The employer does not have to _____ the employee _____. There are other words which have the same meaning as " _____ ." The employee could be _____, _____, **given the** _____, or **given the** _____. The employer could also say "There's the _____." All of these mean the same thing. The job is over, and the employer is not happy with the employee.



When an employee says "I _____ _____", the listener doesn't know if the employee and employer left each other happily or not. The listener only knows that the employee is not working there anymore.

Sometimes the employee doesn't want to leave, and the employer doesn't want the employee to leave. But, there might not be enough money. The employee could be _____ because there is not enough work. This means that the employer might want to hire the employee again when the company has more money. But, if the employer doesn't think the employee will be hired again, the employee is _____, or _____.

TERMINATION OF EMPLOYMENT

READING A: 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.

Employees who have worked for an employer for at least 30 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. 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 period. This is often called "wages in lieu of notice". The notice period varies depending how long employees have worked with that employer.



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.

Period of employment	Notice period
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 10 years	six weeks
at least 10 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. Employers can also allow employees to work part of the notice and pay wages in lieu of notice for the remainder. Employers cannot keep wages from employees who quit without notice. Employers must pay employees all earned wages within 10 business days from the last day of work.

COMPREHENSION QUESTIONS:

1. Is a layoff the same as termination?
2. Do employees need to give notice of termination?
3. Do employers need to give notice of termination?
4. How much notice of termination must employers give to their employees?
5. Can employers pay wages instead of providing notice of termination?
6. Can employers keep employees' wages if employees terminate without notice?

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READING B

In the first 29 days of employment the legislation states that employers and employees have the right to end the working relationship without notice. 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
- when there is good reason, also referred to as “Just Cause”, for terminating employment. There are many factors to be considered under “Just Cause”, but may include violence, theft, or dishonesty.
- when employees are placed on a temporary layoff

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.

Human rights, workplace safety and health and collective bargaining legislation all have provisions that prevent discrimination and offer some job protection. More information can be found on the Other government agencies page. There is also civil law covering employment and a lawyer should be consulted about civil law affecting employment.

Employment is considered continuous during statutory leaves like parental, maternity or compassionate care leave. It is also considered continuous during non-statutory leaves, like an educational leave, if the leave was approved by the employer.

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

No. 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.

COMPREHENSION QUESTIONS:

1. Is there a no-notice period?
2. Are there times employers and employees do not need to give notice of termination?
3. Do other laws affect termination?
4. Do parental leaves or other leaves of absence affect notice?
5. Can employers have notice policies for their businesses that are different from the legislation?

SCENARIO #1: OVERTIME & BREAKS

John works in an office with three other office workers. He has a standard shift of 8 am to 2 pm Monday to Friday, for a total of 30 hours a week. When one of the office workers who works in the evening, Svetlana, goes on vacation, John is asked to work her shift in addition to his. He works a total of 36 hours in the week. His week of work during the week that Svetlana is away is as follows:

Monday	Tuesday	Wednesday	Thursday	Friday
8:00 to 14:00 5:00 to 8:00 (9 hours)	8:00 to 14:00 (6 hours)	8:00 to 14:00 5:00 to 8:00 (9 hours)	8:00 to 14:00 (6 hours)	8:00 to 14:00 (6 hours)

John likes his job, but he is tired working the split shifts. When he mentions this to one of his co-worker, Nadia, she says, “Well, at least you’re making overtime”. “No, I’m not” said John, “It says in my contract: NO OVERTIME”. “That seems strange” says Nadia, “Why don’t you phone Employment Standards and check it out?”

What do you think Employment Standards will say about this situation:

- There is no overtime possible because the contract says “NO OVERTIME”
- There is no overtime because the total hours for the week are less than 40 hours
- John should receive 1 hour of overtime for Monday, and 1 hour overtime for Wednesday, for a total of 2 hours of overtime. He should be paid 1 ½ times his regular hourly wage for these two hours.
- John should make sure that he receives a half hour break, either paid or unpaid, for each 5 hour shift. This will make a difference in how much overtime he receives. If the break is unpaid, he will receive ½ hour of overtime for Monday and ½ hour of overtime for Wednesday.
- C & D
- John does not need to take breaks or receive overtime if he accepts the shifts.
- It is legally okay for John to work overtime without receiving overtime money or time off because he doesn’t want to talk to his boss about it.



SCENARIO #2: VACATION PAY



An employee, William, has been working as a travel agent for 1 year. He is making \$40,000 during this first year, around \$800 a week. He does not receive any vacation pay on his pay cheques during this year. His employer has told him that he can receive his vacation, with pay, after he has completed one year of service with the company.

After he has completed 12 months with the company, his job assignment changes, and William now works half time, and makes \$20,000 a year, or \$400 a week. In his 15th month of service, he decides to take his two week vacation. He receives vacation pay based on his current level of employment, which is half time. He receives his usual two week pay cheque, which is equal to \$20,000 times 4%, or \$800 as his two week vacation pay. William is upset, because he believes that the vacation pay should be based on his previous year's earnings, on his full time salary of \$40,000 a year. He believes he should receive \$40,000 times 4%, or \$1,600 for his vacation pay, because he was working more hours the previous year. However, his employer tells him that his hours are based on the amount he is currently working. He decides to check this out with Employment Standards.

What do you think Employment Standards will say about this situation:

- The employer is correct. Vacation pay is based on the current year. He gets the same pay as usual during his time off.
- The employee is entitled to 4% of all of their previous year's earnings as vacation pay. They can be paid this amount on every pay cheque or when they take their vacation.
- The employee should be happy he is getting any vacation pay at all, as it is up to the employer to decide how much he gets.
- The employer doesn't have to keep any records of employment, so if William can't produce pay slips to show his previous year's income, he will not have any chance of proving the vacation pay he deserves.



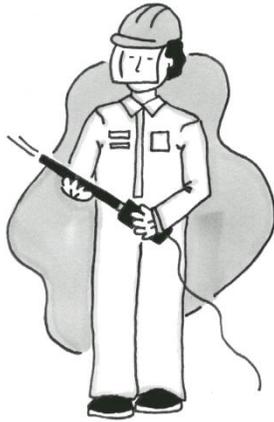
SCENARIO # 3: GENERAL HOLIDAYS

Adriana is an employee at a library. She works every Tuesday and Thursday, but never on Mondays. Her hours change week to week. Sometimes she works 10 hours a week, sometimes 16. Thanksgiving is always on a Monday. She doesn't think it's fair that her fellow employees who always work Mondays get more days off than she does. She has asked her employer if she is entitled to general holiday pay for that day, or extra time off. He says no. She decides to phone Employment Standards.

What do you think Employment Standards will say about this situation:

- (a) No, general holiday pay applies only to full time employees, not part time.
- (b) General Holiday pay is only paid when employees would have been working on the day that is a general holiday. If the holiday was Monday, and they never worked on Monday, they won't receive anything.
- (c) If employees' hours or wages change from day to day or pay period to pay period, the general holiday pay is 5% of the employees' total wages in the four week-period immediately before the holiday.
- (d) When a general holiday falls on a day that employees do not normally work, the employers must give employees another day off, with general holiday pay, before their next annual vacation, or at a time they both agree on.
- (e) C & D



SCENARIO # 4: GENERAL HOLIDAYS

Emmanuel's employer decides to close down the plant over the Christmas break. All employees are expected to take two weeks of unpaid leave during that time. When Emmanuel receives his next pay cheque, he doesn't see any extra money for the two general holidays (Christmas day and New Year's Day) that occurred during that time. He asks his employer about it, and his employer replies; "You don't get holiday pay for that time, because you weren't working for that pay period." Emmanuel decides to phone Employment Standards.

What do you think Employment Standards will say about this situation:

- (a) The employer is correct. When the employee doesn't work for a pay period, they don't get paid for general holidays during that pay period.
- (b) The employer has to pay the employee a full day of wages for Christmas day and New Year's day, because they are both general holidays.
- (c) It is the employer's choice. They can choose to give their employees a Christmas bonus and pay them for Christmas day and New Year's Day.
- (d) The general holiday pay is 5% of the employees' total wages in the four week-period immediately before the holiday. This means that the general holiday pay for Christmas would be a little higher than the general holiday pay for New Year's day, because the employees didn't work between Christmas and New Year's day.



SCENARIO # 5: GENERAL HOLIDAYS & LEAVES



Patrick works for two jobs, and his employers know each other, as both of his jobs are in the same building. His first job is as a warehouse worker, and his second job is as a cleaner. His first job is $\frac{3}{4}$ time and his second job is $\frac{1}{4}$ time. After the Louis Riel holiday is over, Patrick is surprised to see that only his $\frac{3}{4}$ time job has paid him any general holiday pay. When he asks the $\frac{1}{4}$ time job, his employer replies that Patrick is already being paid by his other employer, and that he is not allowed to get paid twice for the same general holiday. Patrick is confused and decides to phone Employment Standards.

What do you think Employment Standards will say about this situation:

- (a) His employer is correct. He can only receive pay from the job which is giving him more hours.
- (b) He should not get any general holiday pay for Louis Riel day.
- (c) He should get paid a full day's wage from each employer.
- (d) The general holiday pay is 5% of the employee's total wages in the four week-period immediately before the holiday. Each employer should pay him the pay in proportion to how much he has worked for each employer during the 4 weeks prior to the holiday.



SCENARIO # 6: GENERAL HOLIDAYS & LEAVES

Jorge is a taxi driver. His wife has just had a baby, and so Jorge decides to take a parental leave. He is absent from work, on leave, from December 20th until February 28th. When he returns to work, there is no mention or indication that he will receive any holiday pay for the three general holidays that have occurred during this time; Christmas day, New Year's day, and Louis Riel day, which is on February 18th of that year.

He thought that he should still receive money for them, because he was still an employee during this time. He decides to phone Employment Standards to find out.

What do you think Employment Standards will say about this situation:

- (a) He receives pay for Christmas day and New Year's day, but not for Louis Riel day. The general holiday pay is 5% of the employee's total wages in the four week-period immediately before the holiday. For Louis Riel day, 5% of the total wages earned in the month before wouldn't result in any pay, because he didn't work the month before Louis Riel day.
- (b) He receives three extra full day's wages when he returns.
- (c) He only receives general holiday pay for Louis Riel day, because it is within two weeks of his return.
- (d) He doesn't receive any money for general holiday pay because he was on leave.



SCENARIO # 7: BEING SENT HOME EARLY

Thomas works as a security guard. He has a contract which states that he will be employed for 12 hours a week, in two shifts of six hours each. One day he reports to work, and is told that there is no work for him to do. His employer asks him to go home, and tells him that he will not be paid for the 6 hour shift, even though he has showed up for work as agreed. He is upset, as he has spends an hour on the bus each way to get to work, and now his afternoon is wasted and he will not be paid anything. He decides to phone Employment Standards.

What do you think Employment Standards will say about this situation:

- (a) The employer should pay him for 6 hours of work as agreed, even though he didn't work.
- (b) All employees are required to be paid for three hours of work if they report to work for a shift that is three hours or more.
- (c) The employer should pay for him for his transportation time and costs.
- (d) If he doesn't work, he doesn't get paid. It's that simple.

SCENARIO # 8: BEING SENT HOME EARLY

Stephanie works only 1 hour a day teaching guitar at a local guitar store. One day she reports to work, and is told that her client is not available, and that she has to go home, and that she will not get paid for showing up. Stephanie thought she heard that employers always have to pay an employee three hours of wages if they cancel a shift, so she decides to phone Employment Standards.

What do you think Employment Standards will say about this situation:

- (a) The employer should pay her for the 1 hour that she was scheduled to work.
- (b) All employees are required to be paid for three hours of work if they report to work.
- (c) The employer should pay for her transportation time and costs.
- (d) If she doesn't work, she doesn't get paid. It's that simple.



SCENARIO # 9: CANCELLED SHIFTS



Chantel has two jobs. On Monday, at one of her jobs, her employer at the hair salon cancels her Wednesday shift of working from 12:00 to 5:00. She will not get paid for any hours on Wednesday. Chantel is upset, because if she had known sooner, she could have picked up extra hours at her second job, but now it is too late. She is wondering if her employers have any obligations to honour the hours of work promised. She decides to phone Employment Standards.

What do you think Employment Standards will say about this situation:

- (a) The employer can cancel shifts or contracts ahead of time and not owe the employee any money, as long as they have not showed up for work already.
- (b) The employers must give a week's notice or pay if they cancel within a week.
- (c) The employer has to offer the employee extra shifts or hours to make up for the cancelled hours.
- (d) The employer has to cancel the shift at least 24 hours prior to the start of the shift. If they do so, they owe the employee nothing.

SCENARIO # 10: PUNCHING INTO WORK



Ryan is a very hard worker. He arrives to work 25 minutes early, and punches in his time card and starts to work. He notices that it is very busy, so he doesn't ask his supervisor if he should work, but simply punches in and starts. He is proud of the fact that he contributes to the success of the company. When he gets his pay cheque, however, he notices that he is not getting

paid for the 25 minutes that he has worked, prior to the start of his shift. When he asks his employer, his employer says that he doesn't have to be paid for this time, because it was not on the schedule. The employer rounded off the 25 minutes to 30 minutes and deducted 30 minutes from the total time that Ryan had punched in for. Ryan doesn't feel that this is right. He decides to phone Employment Standards.

What do you think Employment Standards will say about this situation:

- (a) The employer is correct in deducting 30 minutes.
- (b) The employer can only deduct the 25 minutes that were unscheduled, not 30. Ryan needs to ask permission before working extra minutes or punching in early.
- (c) The employer has to pay for the 25 minutes, because Ryan was busy working.
- (d) The employer has to pay for 5 of the minutes, because all employees are expected to punch into work 5 minutes before their shift starts.

