

# Can Employees Be Liable to Employers for Wrongful Resignation: Quiz



The duty to provide termination notice works both ways.

HR directors know all about wrongful dismissal and the duty to provide termination notice. But what may get overlooked is that termination notice is a two-way street and that employees who fail to provide it can be liable for damages. Take this quiz to test your own understanding of how the rule works.

## SITUATION

A structural engineering firm hires a site representative to inspect defective welds on school construction projects. Both sides expect the agreement to last 5 weeks. But the representative walks off the job after just 3 weeks when the work is only 30% complete without providing any notice. As a result, the firm has to stop the project until it can find a replacement, incurring thousands of dollars in costs.

## QUESTION

**Can the representative be liable for the firm's damages caused by his failure to provide notice of resignation?**

1. No, because while employers must provide notice of termination, employees may quit any time they want
2. No, because the representative wasn't employed for a full month
3. No, because the engineering firm didn't make the representative sign a contract requiring him to give advance notice of resignation
4. Yes, because employment standards laws require employees to give their employers reasonable advance notice of resignation

## ANSWER

1. **Yes, the firm can recover damages from the representative for resigning without notice**

## EXPLANATION

This situation, which is based on an actual Newfoundland case illustrates that employees can be held liable for "wrongful resignation." That's because in 8 of

the 14 jurisdictions, provinces employers are entitled to reasonable advance notice before an employee leaves, regardless of the employee's length of service, rate of pay or contractual obligations. Employers may not recognize this or realize that they may be entitled to damages when an employee leaves without notice. How much advance notice the employee must give depends on the position held and the amount of work and time required to find a replacement. In this case, the court said the site representative should have given the firm one week's notice [*Howley, Talabany & Associates v. Prest*, [1999] N.J. No. 134]. [Click here](#) to look up the employee termination notice requirements of your jurisdiction.

## **WHY WRONG ANSWERS ARE WRONG**

**A is wrong** because as the *Howley* case shows, employers are also entitled to advance notice of an employee's intent to quit so they can find a replacement or adapt the workplace to continue operating without the employee.

**B is wrong** because the duty to provide reasonable advance notice of termination doesn't depend on the amount of time that an employee actually worked for a company. The duty exists regardless of whether the employee worked for one week or 22 years. But length of service is important when it comes to figuring out length of notice required and the damages the employer can collect if that notice isn't provided.

**C is wrong** because an employment contract isn't always necessary to spell out an employee's duties to his employer. In provinces that require advance notice of resignation as a matter of law, the duty exists regardless of whether the employee has signed an employment contract.