Can You Be Fired While On Sick Leave In Canada? Know Your Rights



Understanding Your Rights and Legal Protections If You're Terminated While on Sick Leave in Canada

Sick leave is an essential right for Canadian employees, allowing them to recover from illness or injury without fear of job loss. However, many workers worry about whether their employer can terminate them while they are on leave. Understanding your rights under Canadian employment law is crucial to ensuring job security during medical leave.

In this blog, we will explore the legal protections in place for employees on sick leave, the circumstances under which termination may occur, and what steps you can take if you are unfairly dismissed. We will also provide insights into disability accommodations, severance entitlements, and how to seek help from an Employment Lawyer, including an Employment Lawyer Toronto, if you are based in Ontario.

Understanding Sick Leave in Canada

What Qualifies as Sick Leave?

Sick leave allows employees to take time off work due to illness, injury, or medical conditions. In Canada, sick leave can vary depending on federal and provincial laws, as well as individual employer policies.

Key types of sick leave include:

- **Short-term sick leave:** Typically a few days to several weeks, often covered under employer policies.
- **Long-term sick leave:** Extended absences due to chronic illness or disability, which may be covered by employment insurance (EI) or long-term disability (LTD) benefits.

Paid vs. Unpaid Sick Leave

- Federally regulated employees (e.g., banking, telecommunications) are entitled to 10 paid sick days per year under the Canada Labour Code.
- Provincial employment laws vary: Some provinces mandate a few paid sick days, while others provide unpaid leave with job protection.
- Employers may offer additional paid sick leave benefits through workplace

policies.

Can You Be Fired While on Sick Leave?

Is It Legal for Employers to Terminate You During Sick Leave?

Canadian employment law prohibits termination due to illness or disability, as it is considered discriminatory under human rights legislation. However, there are exceptions where termination may still be legal, including:

- Company-wide layoffs or restructuring
- Performance-related dismissals (if unrelated to the illness)
- Employer claims of "frustration of contract" (if the employee is unable to return to work indefinitely)

Employer Justifications for Termination

Employers must provide a valid reason for termination that is unrelated to the employee's medical condition. If an employer attempts to fire an employee while they are on leave without proper justification, the employee may have grounds for wrongful dismissal and should consult a Wrongful Dismissal Lawyer.

Employment Laws Protecting Sick Employees in Canada: Your Rights and Legal Safeguards

Canadian employees on sick leave are protected by federal and provincial employment laws, human rights legislation, and workplace policies designed to prevent unfair dismissal.

Federal and Provincial Employment Standards

Canadian workers fall under one of two categories:

- Federally regulated employees (e.g., banking, telecommunications, postal services) are protected under the Canada Labour Code, which provides up to 17 weeks of job-protected unpaid sick leave and 10 paid sick days annually.
- Provincial employment laws set minimum standards for sick leave protection for employees in private-sector jobs.

Each province has different sick leave protections, for example:

- **Ontario:**3 unpaid sick days per year under the Employment Standards Act (ESA).
- **British Columbia:**5 paid sick days and 3 unpaid sick days per year.
- **Quebec:**2 paid sick days after three months of service.

Human Rights Protections for Employees with Illness or Disabilities

The Canadian Human Rights Act and provincial human rights codes prohibit discrimination against employees based on illness, disability, or medical conditions. Employers cannot fire employees due to their health condition if reasonable accommodations can be made.

If you suspect discrimination, seeking advice from an Employment Lawyer Free Consultation can help clarify your rights and legal options.

Wrongful Dismissal: What to Do If You're Fired on Sick Leave

Losing your job while on sick leave can be illegal if the termination is linked to your medical condition. Understanding wrongful dismissal and your legal options is crucial.

What Qualifies as Wrongful Dismissal?

A termination is considered wrongful if:

- Your employer fires you because of your medical leave or disability.
- Your employer does not provide proper severance pay or notice.
- Your employer fails to explore accommodations before termination.

Legal Steps to Take After Wrongful Dismissal

If you believe you were wrongfully terminated, you can:

- Consult a Wrongful Dismissal Lawyer to review your case.
- File a complaint with your provincial labour board or the Canadian Human Rights Commission.
- Negotiate a severance package with legal help.

Learn more about the signs you're being pushed out of your job and take action if you notice any warning signals.

A Wrongful Termination Lawyer can assess whether you were dismissed unfairly and help you fight for compensation.

Disability Accommodations and Employer Obligations: Ensuring Fair Treatment

Employers have a legal duty to accommodate employees with disabilities or medical conditions under human rights laws. This means they must make reasonable adjustments to allow you to continue working.

What Accommodations Are Employers Required to Provide?

Employers may need to offer:

- **Modified work schedules**(e.g., reduced hours, flexible start times).
- **Remote work arrangements**(if feasible for the job).
- **Temporary job modifications**(lighter duties, different tasks).

What If Your Employer Refuses to Accommodate?

If an employer fails to accommodate without proving "undue hardship," they may be violating your human rights. In such cases:

- Seek legal advice from an Employment Lawyer Toronto to explore your options.
- File a human rights complaint with the appropriate commission.
- Document all communications with your employer regarding accommodation requests.

For additional guidance, read Job Security Tips for Employees with Disabilities.

Severance Pay and Employee Rights After Termination: What You Should Know

Employees terminated while on sick leave may be entitled to severance pay, depending on their length of service, employment contract, and employer policies.

Are You Entitled to Severance?

You may qualify for severance if:

- You worked for the employer for a minimum required period.
- You were terminated without cause and without proper notice.

- Your employer failed to accommodate your illness before firing you.

How Much Severance Should You Get?

Severance varies based on:

- Your years of service.
- Your age and employability.
- Type of position you had.
- Whether you were wrongfully dismissed.

An Employment Lawyer can help negotiate a fair severance package or challenge an unfair dismissal.

What If You Qualify for Long-Term Disability?

Employees suffering from chronic illness or severe disability may also be eligible for Long-Term Disability (LTD) benefits. Consulting a Long Term Disability Lawyer can help you apply for benefits or appeal a denied LTD claim.

Steps to Take If You Fear Job Loss During Sick Leave

If you're worried about job security while on sick leave, taking proactive steps can help protect your rights and prevent wrongful termination.

Communicate Clearly with Your Employer

- Notify your employer about your medical leave with proper documentation (doctor's note, medical certificates).
- Request reasonable accommodations before your condition worsens.
- Keep written records of all conversations with HR or management.

Know Your Rights and Seek Legal Advice

- Consult an Employment Lawyer Free Consultation to understand your legal protections.
- If your employer pressures you to resign, do not sign anything before getting legal advice.
- If you suspect discrimination, file a complaint with the Human Rights Commission.

What If You Are Asked to Return Before You're Ready?

If your employer or insurer asks you to return to work before you're medically cleared, you could consider the following steps:

- If your employer forces an early return, provide medical proof that you are unfit to work.
- Request gradual reintegration or modified duties if necessary, with medical support.
- Speak to a Long Term Disability Lawyer Toronto if you are denied LTD benefits.

For more job security advice, check out Job Security Tips for Employees with Disabilities.

Final Thoughts: Protecting Your Rights While on Sick Leave

Taking sick leave is a fundamental right that allows employees to focus on their health without fear of losing their job. However, some employers still attempt to

wrongfully terminate or pressure employees out during medical absences. This can create overwhelming financial and emotional stress, especially for those already dealing with serious health conditions.

The good news is that Canadian employment laws strongly protect workers on sick leave through employment standards, human rights laws, and workplace policies. Employers cannot legally fire you simply because you are on sick leave. If they do, you have the right to challenge the termination, seek compensation, or even fight for reinstatement.

At Unified LLP, we specialize in employment law, disability claims, and wrongful dismissal cases. If you believe you have been wrongfully terminated while on sick leave or suspect that your employer is violating your rights, our experienced legal team can:

- Assess your case and determine if your dismissal was illegal
- Negotiate a fair severance package if termination cannot be reversed
- File a wrongful dismissal claim to seek compensation
- Advocate for your human rights if discrimination played a role in your termination
- Help you secure long-term disability benefits if you are unable to return to work

Speak with an Employment Lawyer Today

If you're facing wrongful termination, job insecurity, or disability discrimination, you don't have to navigate this alone. Our dedicated team at Unified LLP offers expert legal advice and representation to help protect your rights.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

Authors: Gil Fischler, Christopher Kim, Boris Alexander

Unified LLP