

# Employer Do's & Don'ts When Holding Termination Meetings



Last year, we published a blog about things an employer should do before they terminate the employment of an employee. In recent years, employers are facing increasing claims for aggravated damages arising out of the manner in which the employer has carried out the termination of an employee's employment. In order to minimize the possibility that aggravated damages will be awarded, here are our Do's and Don'ts for employment termination meetings.

## **DO:**

1. Have the termination letter, any severance offer, and release prepared and ready to give to the employee.
2. Ensure that a valid reason for dismissal is set out in the termination letter, even if it is just "we have decided you are not the right fit for the organization going forward."
3. Arrange to meet the employee in person in a private place (subject to COVID restrictions).
4. Have the employee's direct manager and another manager, preferably from human resources, present at the meeting.
5. Arrange the termination meeting towards the end of the day, unless the dismissal is for cause and immediate dismissal is warranted.
6. Keep the meeting short and to the point. Stick to the facts. Be courteous and professional.
7. Briefly go over the contents of the termination letter.
8. Provide information to the employee on how they can exercise any benefit conversion rights they may have.
9. Consider having an employment counsellor available to meet with the employee after the meeting, particularly in instances of long-term employee dismissals or significant group layoffs.
10. Consider arranging a time when the employee can return to the worksite to clear out their desk or locker or gather their personal belongings and when no one else is around (i.e. avoid a Jerry Maguire moment).
11. Offer the employee a cab or Uber, at the employer's cost, to take them home.
12. Gather the employee's keys, fobs, credit cards, laptop and other similar company property before the employee leaves the premises.

## **DON'T:**

1. Have the termination meeting in a public place (do not go to a restaurant or a hotel lobby or terminate the employee's employment on the factory floor. If you have to, rent a hotel room.)
2. Have the meeting in your own office (... if the employee refuses to leave, you aren't going to have a place to work).
3. Surreptitiously record the meeting.
4. Engage in a lengthy dialogue or debate about the reasons for the dismissal (see above....keep the meeting short and stick to the facts).
5. Make derogatory or gratuitous comments about the employee's performance.
6. Rely on any reasons for dismissal for cause that you do not have the facts to back up. This is not to say that you have to be certain that a court will agree that the circumstances that you are relying on will constitute cause, just that you shouldn't make allegations based on flimsy evidence.
7. Dismiss the employee for cause before you have completed a proper investigation and give the employee an opportunity to respond to the allegations against them.
8. Share the reasons for dismissal with any other employee – it's none of their business.
9. Have security present to escort or watch over the employee while they clear out their desk/locker, unless there is a real security threat.
10. Use physical force to evict the employee from the premises.
11. Attempt to set off monies owing by the employee from their final wages unless you have a written agreement permitting you to do so. This is not to say that you cannot set off monies owing against a severance offer that is in excess of employment standards requirements.

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