

Notice Rights – What Rights Do Employees Have To Notice On Termination Of Employment?



In Canada, particularly in the province of Quebec, the length of notice of termination to which an employee is entitled is fairly generous. In Quebec, the right to notice is mainly governed by two pieces of legislation, namely the Civil Code of Quebec (CcQ) and the Act respecting labour standards (LSA). While the provisions of the CcQ apply to all parties bound by a contract of employment, the LSA provides labour standards for specific categories of employees.

Notice of termination under the LSA

Under the LSA, an employer must give written notice to an employee before terminating his contract of employment or laying him off for six months or more. This right cannot be exercised namely by senior managerial personnel, nor by employees with less than three months of uninterrupted service, whose contract for a fixed term expires or who committed a serious fault.

The statutory length of notice is calculated only in accordance with the duration of the uninterrupted service of the employee. For example, an employee with one to five years of service is entitled to two weeks' notice and an employee with ten years of service or more is entitled to eight weeks' notice. An employer who fails to give notice or gives insufficient notice must pay the employee a compensatory indemnity equal to his regular wage, excluding overtime, for a period equal to the period (or remaining period) of notice to which he is entitled .

Notice of termination under the CCQ

Under the CcQ, either party to a contract for an indeterminate term has the

right to terminate the contract by giving notice of termination to the other party. For the employee, the main purpose of this notice is to allow for a reasonable period of time to find alternate employment, without suffering loss of revenue in the meantime.

This notice shall be given in reasonable time, taking into consideration the nature of the employment, the circumstances in which it is carried on and the duration of the period of work. According to case law, several other factors specific to the employee may also be considered, namely age, level of responsibility, salary and relocation opportunities. The employer has the option to require the employee to work throughout the notice period, to provide the employee with an indemnity in lieu of notice, or to combine both options.

Depending on the facts of the case at bar, notice of termination in Quebec varies from one to twenty-four months, including the statutory minimum of the LSA. The length of notice of termination generally remains consistent over time, but we have recently seen more generous notices being awarded by courts. With the ageing population and the limited possibilities of reemployment, it will be interesting to see if courts will continue to award notices closer to twenty-four months, at the higher end of the spectrum.

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