

# Severance and Psychological Harassment



## ***Suggestions for reasonable severance offers for employees who experienced psychological harassment***

Severance packages can be a major source of dismay when the public hears about an executive leaving a struggling organization with a 6, 7 or 8 figure severance package. When CEO Thorsten Heins left tech giant Blackberry (formerly RIM), it was reported that he would receive about 22 million for his short tenure. Weeks later, Blackberry reported plans to layoff almost 50% of its workforce. Two months after, Blackberry reported a \$4 billion quarter loss.

## **Severance Package Factors**

These stories raise everyone's ire. But most severance packages are an appropriate way for an employer to part ways with an employee. In Canada, the Employment Standards Act (ESA) lays out minimum severance guidelines of 1-week for every year worked up to a maximum of 26 weeks, though this does vary across the Provinces and Territories and does not apply to all organizations. To calculate minimum severance, you can visit the Government of Canada Severance Tool.

The ESA is only a minimum and does not precisely calculate what an employee *should* receive, or what an employee will accept. In many cases, severance packages several times larger than the minimum are offered, requested or ordered. Severance often depends on factors including:

- Labour market availability (how long it will take an employee to find a job)
- Length of service, (by far the most common component)
- Age of the employee
- The level of the job (including salary and duties)
- How notice was offered and the circumstances of the situation
- Other mitigating factors such as the way the employee was treated (or

acted) including if there was a question of mistreatment or harassment

## **Psychological Harassment and Severance**

In cases where an employee claims (or demonstrates) that psychological harassment existed in the workplace, this can increase the potential for much higher financial settlement.

In the event of harassment, there may be times when it is the employee's preference, or in his best interest, to leave the organization. When faced with a situation where an employee has a realistic claim of harassment you should carefully weigh your approach to severance. Under these conditions, offering a low-ball severance to an employee is not the best choice. Even if an employee agrees to an initial severance, it is important to understand that in the months to come, he may be able to come back after you for more. It is better to negotiate in good faith, and with consideration to the employee's experience from the beginning.

### **If You Suspect Psychological Harm What Should You Offer?**

It is a complicated question to consider what constitutes a fair offer of severance in this situation, but it is common sense to consider an offer that reasonably exceeds the minimum. What is reasonable will vary based on many factors. Below we have provided some ideas for your consideration. Note that these guidelines do not represent a legal opinion but a psychological one.

### **Psychological Guidelines for 'Reasonable' Severance Offers**

- **Under 2 years:** 6 – 8 weeks severance, and an offer of either \$600-\$800 in benefits or an outplacement package of equivalent value
- **2+-4 years:** 6-10 weeks severance, 6-8 weeks benefits and/or an equivalent outplacement package
- **5 – 9 years:** double the minimum or 10-18 weeks plus continued benefits for half the payout period and/or outplacement
- **10-19 years:** 12 – 16 weeks (presented as 4-8 months) severance plus benefits for 4 – 6 months and an outplacement package (\$1000+ and more for senior management)
- **20 plus years:** 8-12 months of severance plus benefits for 6-10 months and an outplacement package (based on level of employment, beginning at a minimum of \$1,500)

*(Note the addition of benefits and outplacement are important. Benefits provide access to counseling for personal transitions and outplacement provides both support and tactical assistance with career transition.)*

Ultimately, the employee might not settle and may insist on a better package. To show your willingness to fairly negotiate, it is better to demonstrate compassion by not starting at the bottom. From a psychological point of view, being offered something reasonable can help reach agreement sooner.

With publicly reported settlements in the range of 10-15 months plus benefits, and punitive damages potentially on the table, these offers could ultimately save your organization money. Let's not even get into legal costs!

Weigh your options and approach. Showing your employee kindness and respect can

go a long way.

## **Resources**

5 Termination Payment Calculation Traps to Avoid  
Labour Standards In Canada Links