

Termination Notice Duties of Employees – Know the Laws of Your Province



The duty to provide termination notice runs both ways

We all understand that employment standards laws ban employers from terminating an employee without cause unless they provide termination notice or wages in lieu of notice. But what often goes overlooked is that the duty to provide termination notice runs both ways. Although it's not universal the way the duty of employers to furnish termination notice is, the majority of jurisdictions require employees to give a minimum amount of advance notice before they quit their jobs. Here's a look at the rules and the exceptions in each part of Canada.

Employees' Duty to Provide Termination Notice to Employers

FEDERAL

Employee can quit at any time without having to provide termination notice

ALBERTA

Required Notice: Employee must provide written termination notice of at least: a. 1 week if they've been employed for more than 90 days but less than 2 years; or b. 2 weeks if they've been employed for 2 years or more (*Employment Standards Code*, Sec. 58(1))

Exceptions: Notice not required if: a. there's an established industry custom or practice not to give notice of termination; b. the employee terminates because his/her personal health or safety would be in danger if he/she stayed; c. the employment contract is or has become impossible for the employee to perform due to unforeseeable or unpreventable causes beyond the employee's control; d. the employee has been employed for 90 days or less; e. the employee is temporarily laid off; f. the employee is laid off after refusing the employer's offer of reasonable alternative work; g. the employer doesn't provide the employee work due to a strike or lockout at the employee's place of employment; h. the employment agreement allows the employee to elect either to work or not work for a temporary period when the employer requests him/her to work; or i. the employee terminates due to a reduction in wage rate, overtime rate, vacation pay, general holiday pay or termination pay

(ESC, Sec. 58(2))

Work During Notice Period: a. If employee gives termination notice less than the notice the employer would have had to give, the employer can terminate sooner by paying the wages the employee would have earned if he/she had worked regular hours for the remainder of the termination notice period *that the employee provided*; and b. If employee gives termination notice equal to or more than the notice that the employer would have had to give, the employer can terminate sooner by paying the wages the employee would have earned if he/she had worked regular hours for the remainder of the termination notice period *that the employer would have had to give* (ESC, Sec. 59)

BRITISH COLUMBIA

Required Notice: Employee can quit at any time without having to provide termination notice

Work During Notice Period: If employee with at least 3 consecutive months' service does give notice, employer can terminate sooner by paying the remaining notice given by the employee or amount they'd have to pay the employee if they had decided to terminate the employee, whichever is less (*Employment Standards Act*, Sec. 63(6))

MANITOBA

Required Notice: Employee must provide termination notice of at least: a. one week if they've been employed for 1 year; or b. 2 weeks if they've been employed for 1 year or more (*Employment Standards Code*, Sec. 62.1(1))

Exceptions: Notice not required if: a. the employment with employer is less than: (i) the probationary period specified in a collective agreement, if that period is 1 year or less, or (ii) in any other case, 30 days; b. the employment is for a fixed term and terminates at the end of the term; c. the employee is employed for a specific task and a period not exceeding 12 months, on completion of which the employment terminates; d. the employee is employed in construction; e. the employee is employed under an arrangement by which the employee may choose to work or not work for a temporary period when requested to work by the employer; f. the employment contract is impossible to perform or has been frustrated by a "fortuitous or unforeseeable circumstance"; g. the employee is on strike or has been locked out and the termination meets the requirements prescribed by regulation; or h. the employer acts in a manner that's improper or violent toward the employee (ESC, Sec. 62.1(2))

NEW BRUNSWICK

Employee can quit at any time without having to provide termination notice

NEWFOUNDLAND

Required Notice: Employee must provide written termination notice of at least: a. 1 week if they've been continuously employed for more than 3 months but less than 2 years; b. 2 weeks if they've been continuously employed for 2 years or more but less than 5 years; c. 3 weeks if they've been continuously employed for 5 years or more but less than 10 years; d. 4 weeks if they've been continuously employed for 10 years or more but less than 15 years; or e. 6 weeks if they've been continuously employed for 15 years or more (*Labour Standards Act*, Sec. 52)

Exceptions: Notice not required if: a. employer mistreats or acts in a way that has or might endanger the employee's health or well-being of the employee, or has

otherwise been in breach of a material contract term that the Labour Relations Board deciding a complaint rules that notice isn't needed; b. the employee pays the employer an amount equal to the amount that the employee would normally earn (including overtime) under the contract covering the period of notice that the employee would otherwise be required to give; c. the employment is for a firm non-renewable term or a specific task exceeding 12 months and the employment isn't terminated before the completion of that term or task; or d. the contract between the employer and employee has existed for less than 1 month (LSA, Sec. 54)

NOVA SCOTIA

Required Notice: Employees must give employers written notice of: a. 1 week if they've been continuously employed for 3 months or more but less than 2 years; and b. 2 weeks if they've been continuously employed 2 years or more (*Labour Standards Code*, Sec. 73(1))

Exceptions: Notice not required if: a. employer has been guilty of a breach of the employment terms and condition; or b. the employee is employed in the construction industry (LSC, Secs. 73(1) and (2))

ONTARIO

Required Notice: Employees who get written termination notice from employer can resign and keep severance rights if they give employers written notice of: a. 1 week if they've been employed less than 2 years; and b. 2 weeks if they've been employed 2 years or more (*Employment Standards Act*, Sec. 58(6))

Exceptions: Notice not required if employer constructively dismisses the employee or breaches a term of the employment contract even if the breach doesn't constitute constructive dismissal (ESA, Sec. 58(7))

PRINCE EDWARD ISLAND

Required Notice: Employees must give employers written notice of: a. 1 week if they've been continuously employed for more than 6 months but less than 5 years; and b. 2 weeks if they've been continuously employed for 5 years or more (*Employment Standards Act*, Sec. 29(4.1))

QUÉBEC

Under *Labour Standards Act*, employees can quit at any time without having to provide termination notice; however, under the *Civil Code of Québec*, employees must give employers a reasonable amount of notice to terminate their employment

SASKATCHEWAN

Required Notice: Employees employed for at least 13 consecutive weeks must give the employer written notice of at least 2 weeks (*Sask Employment Act*, Sec. 2-63(1))

Exceptions: Notice not required if: a. there's an established industry custom or practice not to give notice of termination; b. the employee terminates because his/her personal health or safety would be in danger if he/she stayed; c. the employment contract is or has become impossible for the employee to perform due to unforeseeable or unpreventable causes beyond the employee's control; d. the employee is temporarily laid off; e. the employee is temporarily laid off after refusing the employer's offer of reasonable alternative work; f. the employment agreement allows the employee to elect either to work or not work for a temporary period when the

employer requests him/her to work; or g. the employee terminates due to a reduction in wage rate, overtime rate, vacation pay, public holiday pay or termination pay (SEA, Sec. 2-63(2))

NORTHWEST TERRITORIES & NUNAVUT

Employee can quit at any time without having to provide termination notice

YUKON

Required Notice: Employees must provide written notice of: a. 1 week if they've been employed more than 6 consecutive months but less than 2 years; b. 2 weeks if they've been employed 2 years or more but less than 4 years; c. 3 weeks if they've been employed 4 years or more but less than 6 years; or d. 4 weeks if they've been employed 6 years or more (*Employment Standards Act*, Sec. 50(2))

Exceptions: Employee notice requirements don't apply to: a. the construction industry; b. seasonal or intermittent undertakings that operate less than 6 months in a year; c. an employee on temporary layoff; d. an employee employed under a contract that's impossible to perform due to an unforeseeable event or circumstance; d. an employee who has refused reasonable alternative employment by their employer; e. termination due to the employee's completion of a project or assignment that the employee was hired to perform over a period not exceeding 12 months, regardless of whether the employment contract states the exact period; or f. an employee still employed after completing the term of employment set in the employment contract, unless the employee is employed for more than 1 month after the completion of that term (ESA, Sec. 49(1))

Employer Remedies: If an employee quits without giving the required notice: a. the employer may, with the employee's consent, deduct from wages due 1 week's wages at the employee's regular rate of pay for the employee's normal hours of work; b. if the employee doesn't consent to the deduction, the employer must pay the 1 week's wages to the Yukon Employment Standards Director who will then investigate and determine whether to repay the money to the employer or employee (ESA, Sec. 52)