

A blue pen with a silver-colored clip and barrel is positioned diagonally across the lower half of the image. The pen is resting on a white document that features a 'Signature' line. A blue ink signature is partially visible on the left side of the page. The background of the document is filled with faint, illegible text. A solid blue rectangular box is overlaid on the left side of the image, containing the title text in white.

THINGS TO CONSIDER BEFORE TERMINATING

Signature

BEFORE TERMINATING AN EMPLOYEE IN CANADA, THERE ARE SEVERAL IMPORTANT THINGS TO CONSIDER.

1-LEGAL COMPLIANCE:

Make sure that the termination is in compliance with all relevant laws, such as the Canadian Human Rights Act and the relevant Employment Standards Act.

Some of the important legal issues to consider with terminating an employee include:

- Is the termination With Cause or Without Cause?
- Does Working Notice need to be provided to the employee?
- Does Pay in Lieu of Notice need to be provided to the employee?
- Is the employee owed provincial Severance pay?

2-FAIRNESS AND IMPARTIALITY:

Treat all employees fairly and avoid discrimination or bias.

3-PROPER DOCUMENTATION:

Keep accurate records of the reasons for the termination and any relevant performance evaluations or disciplinary actions. If progressive disciplinary measures were not taken and/or documented, consider whether these are steps that should be taken prior to termination.





4-COMMUNICATION:

Communicate the decision to terminate clearly and respectfully to the employee, and provide them with an opportunity to respond or ask questions.

Some tips for communicating a termination to an employee:

- Prepare and stick to a script that follows the details outlined in the termination letter. For example “We are terminating your employment with [Insert company name] effective [Insert date based on legal compliance]”
- Draft a written termination letter and have it on hand so a copy can be given to the employee immediately following the termination electronically or in-person.
- Do not address performance issues with the employee if it is a “Without Cause” termination.
- Always have another management team member present.
- Ensure that the termination occurs in a private and confidential space.

**If the employee contacts HR or a manager following a termination, follow the above.*

Employers should consider training for management to ensure they have the tools to carry out professional and compliant terminations.

5-SEVERANCE PAY:

Consider whether the employee is entitled to severance pay under the applicable provincial or federal employment laws or employment contract.

Some factors that employment lawyers rely on to calculate severance or common law notice include an employee's:

- Age
- Length of employment/years of service
- Position
- Salary
- Experience and training
- Ability to find new work

6-REFERENCE:

Be careful about providing a reference for the terminated employee, as you may be held liable for any false or defamatory statements.

- One safe alternative to providing a reference letter for a terminated employee is to provide an employment verification which can be used to confirm employment history (i.e. dates of employment, job title, etc.)



7-EFFECT ON THE WORKPLACE:

Consider the effect that the termination may have on the remaining employees and take steps to minimize disruption.

Tips for communicating a termination to staff:

- Do not provide specific details on the termination but let staff know who was terminated via a company-wide communication.
- Focus on managing the job opening and the future (i.e. what will happen to the position, will someone new be hired, how will the workload be distributed in the meantime?)
- Use the time period following a termination as an opportunity to review company policies, collective mission and goals

8-FUTURE HIRE:

Consider the effect that the termination may have on the company's reputation and ability to recruit future employees.

IT IS ALWAYS RECOMMENDED TO CONSULT WITH A LAWYER OR HUMAN RESOURCES PROFESSIONAL TO ENSURE THAT THE TERMINATION IS HANDLED LEGALLY AND APPROPRIATELY.

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