

Things to Know When You've Lost Your Job

Losing a job is very traumatic both financially and emotionally. Here are some of the things you might want to know if this happens to you.

- There are different ways you could lose your job:
 - A temporary layoff if your employer does not have work for up to 90 days in a 120-day period.
 - Termination of your job without cause, on notice or with pay in lieu of notice;
 - Dismissal (being fired) for just cause.

Each of these situations has rules an employer must follow.

Temporary Lay-off

- Your employer can temporarily lay you off for 90 days within a 120-day period, with written notice. You maintain your work relationship. You can be recalled with one week's notice. You must return to work within 7 days of receiving the recall notice. If you do not work for more than 90 days in a 120-day period, your employment is terminated and you must be paid termination pay. Your collective agreement may have different lay-off rules. There are different rules for lay-offs due to COVID-19.

Termination without cause

- If your employment is terminated without cause, the amount of notice you are entitled to depends on how long you have worked for your employer. Here is a table that explains "**minimum notice**" periods:

Notice Period	Duration of Employment
1 week	90 days up to 2 years
2 weeks	2 up to 4 years
4 weeks	4 up to 6 years
5 weeks	6 up to 8 years
6 weeks	8 up to 10 years
8 weeks	10 years or more

- Your employer can give you pay instead of notice or a combination of pay and notice. Your employer can give you pay instead of notice or a combination of pay and notice. Your employer must pay your wages, holiday pay, vacation pay and overtime in one of two ways of their choosing:
 - 10 consecutive days after the end of the pay period in which the termination happens, or
 - 31 consecutive days after your last day of employment.
- In some situations you are not entitled to any notice of termination. Some of these situations include:
 - you have been employed for 90 days or less;
 - you were employed for a fixed term or task of less than a year, or you worked on a seasonal basis;
 - you refused offers of reasonable alternative work;
 - you were on a temporary layoff and you did not return to work within 7 days after being asked by your employer in writing to do so;
 - you worked in the construction industry (except for office and fabrication workers);
 - you were on strike or were locked out of your workplace; or
 - your employer cannot fulfil your contract because of unforeseen or unpreventable circumstances.
- If you have a written employment agreement, it might say you are entitled to more notice than the minimum notice. You can agree to a different notice period, however, the notice period you agree to cannot be less than the minimum notice.

Things to Know When You've Lost Your Job

Dismissal

- Has your employer told you that you are out of a job immediately for bad behaviour of some kind? If so, this is called dismissal. There are different rules for employees who have been dismissed.
- One category of dismissal is called "**dismissal with cause**". This means that, your employer feels justified in ending your employment relationship without notice to you and without termination pay because of your behavior or actions. Examples of this kind of serious misconduct include habitual harassment of a fellow employee, unexcused absenteeism, illegal behaviour, major incompetence, or constant neglect of your duties.
- If you dispute the facts upon which your employer dismissed you for cause, you can consider taking legal action on the basis of "**wrongful dismissal**". Such an action could be based on you rejecting your employer's characterization of your behaviour. You could also consider taking action for wrongful dismissal if the proper rules under Alberta's *Employment Standards Code* were not followed about notice and termination pay. If this happens to you, you should call a counsellor at Alberta Employment Standards, or you could consult an employment lawyer.
- There is also a type of dismissal called "**constructive dismissal**". This happens when your job is not formally terminated but your employer substantially changes the terms of your employment so that continued employment there is intolerable. For example, your salary, hours of work, position, or working conditions are substantially changed without your consent or without cause. In this case, you may choose to leave your job rather than accept these new conditions and you could claim to have been "constructively dismissed." If this happens to you, you should consult an employment lawyer.

Resources

Here are some places you can go to for help:

Alberta Employment Standards Offices:

<https://work.alberta.ca/employment-standards/3024.html>

Lawyer Referral Service:

Phone: 1.800.661.1095

Alberta Human Rights Commission:

www.albertahumanrights.ab.ca

Free legal clinics for lower income Albertans in Calgary, Edmonton, Grande Prairie, Lethbridge and Fort McMurray. See Law Central Alberta for contact information:

<https://www.lawcentralalberta.ca/clinics>