

## **Ontario Law and Termination of Employment**

### **WIN Course 6, Part 2 - Lesson 5**

So an employment relationship can end in any number of ways. An employee can decide to leave and go to another job. An employee could retire. But in some cases an employer makes a decision that an employee is no longer needed or wanted in that position.

When an employer decides that they want to terminate an employee, they can, but they have to remember that they either have to have evidence of wrongdoing, which allows them to terminate with just cause, or, if they don't have that, they can terminate an employee by giving them notice, called reasonable notice or time that they will continue to be paid while they are looking for another job. And all the time you have to remember that that Ontario Human Rights Code still applies. You cannot terminate someone because of their disability, because of their marital status, because of their gender, because of sexual orientation, because of any one of the 16 prohibited grounds of discrimination. So there is a lot of law that applies at the time the employer makes that decision.

So let's take the first example: an employee isn't doing the job properly. Well unless the employer has told the employee, unless they have had regular performance evaluations, if they've told the employee "this is the behaviour that needs to be corrected: you're being late all the time: don't be late, and here's why" and if the employee is late again, they have to be told again. So very often people talk about three steps: a verbal warning, a written warning, and then a final warning. There is no law that says there have to be three steps, but it's a good idea, because the employer has to have told the employee, "You've done something wrong. Don't do it again." And they're going to have to be able to prove it, so they have to put it in writing; it should be in a document. If there's been proper supervision, and an employee's been told, an employer will have (probably) no difficulty in terminating and not providing any notice.

But in most cases, employers and managers are too busy, and they don't have those documents, and so in most cases, unless it's a really obvious case of misconduct, most employers use reasonable notice of termination as the method of terminating employment. How much has to be paid to the employee will depend on: how long has the employee worked for you; how old they are; what type of job did they have; what was their salary; and what are the economic conditions in the marketplace today for that kind of

job - how easy would it be for that employee to find a similar job at a similar salary next week.

This means that you have to pay money to an employee when you are terminating them. That calculation becomes important. The minimum that you have to pay is one week of salary for each year that the employee has worked for you, up to a maximum of eight. But that is a very bare minimum. Assuming that we're talking about a professional, and someone that has some credentials that are required for that type of work, and if they've worked for you for more than a year, you will be looking at more than one week of salary as a termination. How much depends on all of those factors.