

Terminations in Ontario – What are my Rights and Obligations?

Julia Chumak

As an employer, the decision to terminate an employee may come with many different considerations, such as whether to terminate with or without cause and providing a reasonable and fair termination package. As an employee, the news that you have been terminated from your employment can be devastating and confusing. However, no matter what side of the fence you happen to be on, it is essential that you are aware of your rights, duties and obligations under the law to ensure that you are protected.

Considerations for Employers

In Ontario, most employers and employees are subject to the rules and protections under the *Employment Standards Act, 2000* (the “ESA”). However, the ESA does not apply to certain categories of employers and employees, for example, those employed in sectors that fall under federal employment law jurisdiction such as airlines, banks or post offices.

The ESA provides statutory guidance with respect to termination of employment, as well as almost any other topic in employment law, including minimum wage, hour of work limits, public holidays, pregnancy and parental leave, severance pay, and vacation.

Where an employee is terminated without cause, they are entitled to minimum statutory entitlements under the ESA, which entitlements will vary depending on the employee’s length of service.

In the alternative, it is possible to terminate an employee for cause. However, proving a with cause termination is extremely onerous and requires the employer to meet a high threshold burden of proof.

Considerations for Employees

In addition to minimum entitlements under the ESA, an employee may be entitled to further payment representing common law reasonable notice damages. The amount of reasonable notice damages required will depend on the specific facts and context surrounding an employee’s employment.

It is important that all parties affected by a termination obtain independent legal advice to understand their rights and obligations under the ESA and the common law to ensure that employers are not in contravention of any legal obligations, and to ensure that employees are provided with their maximum entitlements under the law.

Our Litigation Team at Lawrences would be happy to meet with you to discuss your employment obligations and/or entitlements under the law.