

Severance Checklist

1. REASONS FOR TERMINATION

Do reasons for termination contravene the *Human Rights Code*, *Employment Standards Act, 2000*, or other statute?

If termination is for cause:

(a) Do you have grounds to terminate immediately?

(b) If not, have you warned the employee properly in writing, setting out concerns, giving the employee an opportunity to improve and advised employee that his (her) job is in jeopardy if there is no improvement within a reasonable period of time?

If any of these issues are a concern, you should consult a lawyer before termination.

2. FACTORS TO CONSIDER WHEN PREPARING A SEVERANCE PACKAGE

(a) Termination pay

- The *Employment Standards Act* provides minimum notice or pay in lieu of notice (termination pay)
- Most employee benefits must be continued during this period
- Notice periods vary depending on length of service of employee and number of employees terminated

(b) Severance pay

The *Employment Standards Act, 2000* provides for severance or pay to be paid by some employers to employees with 5 years seniority or more.

Severance pay is payable if:

(i) 50 or more employees are terminated in a 6 month period and the terminations are caused by the permanent discontinuance of all or part of the business of an employer at an establishment; or

(ii) the employer has a payroll of \$2.5 Million or more.

(c) Reasonable Notice

- Determine what is reasonable notice to be given to employee having regard to such factors as the employee's age, length of service, level of responsibility, salary and circumstances of hiring
- Check with your insurance agent to determine what benefits, if any, may be continued during notice period. NB. disability coverage is usually not available to an employee after termination
- Determine whether any benefits have conversion privileges
- Consider obligations to continue other forms of compensation such as company car, pension, car allowance, commissions, bonus, low interest loans etc.
- Consider method of payment? salary continuance vs. lump sum
- Check with Employment Insurance Commission to determine if employee is in receipt of benefits
- Get a Release

3. OTHER FACTORS TO CONSIDER

- Reference letter/exit story
- Outplacement counselling
- Legal Fees
- Confidentiality agreement
- Non Competition clause Non-Solicitation clause
- Return of company property
- Tax consequences

4. MATERIAL TO BE GIVEN TO EMPLOYEE UPON TERMINATION

- Final pay cheque payable no later than next regular pay day
- Vacation Pay
- Record of Employment
- Severance Offer
- Release