

Just Cause

What is Just Cause?

Employers have the right to terminate an employee. The Employment Standards Branch investigates complaints related to whether the employee should have been provided a notice period. Other pieces of legislation such as The Human Rights Code, The Labour Relations Act and The Workplace Safety and Health Act cover other points an employer may also want to consider when terminating an employee. The question of wrongful dismissal is a civil matter that must be dealt with through the court system.

Burden of Proof

The onus is on the employer to prove they had good reason (just cause) for terminating without notice. There are many factors to be considered such as the seriousness of the incident, the employers duty to warn the employee and whether or not the employer has acted in a reasonable and fair manner.

The following are some examples of what may constitute just cause:

- theft
- dishonesty
- violence
- wilful misconduct
- neglect of duty
- poor performance
- disobedience
- conflict of interest

Serious Circumstances

Employers must determine the seriousness of the incident before terminating without notice. Each situation must be looked at on a case by case basis.

Very serious behaviours such as wilful misconduct, dishonesty, theft and violence might happen one time and be serious enough to be just cause because they can harm the very core of an employment relationship.

Other Circumstances

Other behaviours such as being late, missing work and poor performance are not necessarily enough to terminate without notice.

Employers need to show all the steps used to prove the employee understood what was required of them; received enough time and training and, understood they would be terminated if they didnt meet the requirement.

Details of the entire situation must be looked at including:

- the employees work history, position and performance
- the employees length of service
- if the employers actions were reasonable and fair

Condoning Behaviour

The employer must consistently apply workplace rules and practices if they want to terminate an employee without notice. It is difficult to prove there is good reason to terminate an employee when the employer does nothing to change the behaviour or has excused certain behaviours in the past.

For more information contact the Employment Standards Branch:

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This is a general overview and the information used is subject to change. For detailed information, please refer to current legislation including *The Employment Standards Code* and *The Worker Recruitment and Protection Act*, or contact the Employment Standards Branch to ask for advice.

Date Published: December 1, 2011