



Layoffs and Discharges

Information for SIAST Students

1. Lay-off.

A 'lay-off' means the temporary termination of the services of an employee for more than six consecutive scheduled workdays.

Here are some examples of absences that do not constitute a break in service, because the employment relationship continues during absences due to:

- illness or injury;
- in the case of apprentices, absences to undergo institutional training;
- educational leave;
- maternity, parental, or adoption leave; and
- a strike or lockout.

2. Discharge.

A 'discharge' includes a termination, dismissal, a forced resignation, or a forced or significant change in the employment contract.

3. Notice of lay-off or termination.

Labour Standards regulations do not prohibit employers from laying off or discharging employees. However, it does require the employee be given notice, or if notice is not possible, pay in lieu of notice. Employers must give their employees written notice when they are being laid off or discharged.

The amount of notice employees must receive depends on the length of time the employee has been employed.

Length of Service Minimum Notice

0 (but less than 3 months)	0 weeks
3 (months but less than 1 year)	1 week
1 year (but less than 3 years)	2 weeks
3 years (but less than 5 years)	4 weeks
5 years (but less than 10 years)	6 weeks
10 years and over	8 weeks

Annual holidays cannot form part of the notice. The employer cannot reduce the employee's pay and normal hours of work during the notice period.

4. Pay in lieu of notice.

If appropriate notice of lay-off is not given, pay in lieu of notice is required. Pay in lieu of notice means payment of the employee's regular wages for the minimum notice period required.

If wages vary from week to week, a normal week's wages is the average wage for the last four weeks of work, not including overtime.

5. Payment of outstanding wages.

When an employee is terminated, all wages, holiday pay owing and if required, pay in lieu of notice, must be paid within 14 days.

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To contact the Labour Standards Branch:

Visit our website: www.labour.gov.sk.ca

Call: 1-800-667-1783 toll free in Canada fax: (306) 787-4780 in Regina

6. Just cause.

Notice or pay in lieu is not required where an employee is fired for 'just cause'. Just cause is not defined in *The Labour Standards Act*. However, over the years, the courts have handed down numerous decisions on this issue.

Generally, the courts have ruled that an employer does not have just cause to terminate an employee without notice or pay in lieu of notice merely because the employer is dissatisfied with the employee's performance. However, just cause may exist to immediately dismiss an employee without prior warning if the employee is guilty of very serious

misconduct (for example, theft). The facts and circumstances surrounding the misconduct must be examined carefully. Each case is different.

In most cases, more than one incident of employee misconduct is required for an employer to fire an employee for just cause. For these less serious cases of employee misconduct, the employer should encourage improvements by identifying reasonable performance standards, conducting performance reviews over a reasonable period of time, and warning the employee of the consequence of failing to meet the required standards.