

Employer notice period

57. The notice of termination under section 54 shall be given,

- (a) at least one week before the termination, if the employee's period of employment is less than one year;
- (b) at least two weeks before the termination, if the employee's period of employment is one year or more and fewer than three years;
- (c) at least three weeks before the termination, if the employee's period of employment is three years or more and fewer than four years;
- (d) at least four weeks before the termination, if the employee's period of employment is four years or more and fewer than five years;
- (e) at least five weeks before the termination, if the employee's period of employment is five years or more and fewer than six years;
- (f) at least six weeks before the termination, if the employee's period of employment is six years or more and fewer than seven years;
- (g) at least seven weeks before the termination, if the employee's period of employment is seven years or more and fewer than eight years; or
- (h) at least eight weeks before the termination, if the employee's period of employment is eight years or more. 2000, c. 41, s. 57.

Entitlement to severance pay

64. (1) An employer who severs an employment relationship with an employee shall pay severance pay to the employee if the employee was employed by the employer for five years or more and,

- (a) the severance occurred because of a permanent discontinuance of all or part of the employer's business at an establishment and the employee is one of 50 or more employees who have their employment relationship severed within a six-month period as a result; or
- (b) the employer has a payroll of \$2.5 million or more. 2000, c. 41, s. 64 (1).

Payroll

(2) For the purposes of subsection (1), an employer shall be considered to have a payroll of \$2.5 million or more if,

- (a) the total wages earned by all of the employer's employees in the four weeks that ended with the last day of the last pay period completed prior to the severance of an employee's employment, when multiplied by 13, was \$2.5 million or more; or
- (b) the total wages earned by all of the employer's employees in the last or second-last fiscal year

of the employer prior to the severance of an employee's employment was \$2.5 million or more. 2000, c. 41, s. 64 (2); 2001, c. 9, Sched. I, s. 1 (16).

Exceptions

(3) Prescribed employees are not entitled to severance pay under this section. 2000, c. 41, s. 64 (3).

Location deemed an establishment

(4) A location shall be deemed to be an establishment under subsection (1) if,

(a) there is a permanent discontinuance of all or part of an employer's business at the location;

(b) the location is part of an establishment consisting of two or more locations; and

(c) the employer severs the employment relationship of 50 or more employees within a six-month period as a result. 2000, c. 41, s. 64 (4).

Calculating severance pay

1. **65. (1)** Severance pay under this section shall be calculated by multiplying the employee's regular wages for a regular work week by the sum of,

(a) the number of years of employment the employee has completed; and

(b) the number of months of employment not included in clause (a) that the employee has completed, divided by 12. 2000, c. 41, s. 65 (1).

Non-continuous employment

(2) All time spent by the employee in the employer's employ, whether or not continuous and whether or not active, shall be included in determining whether he or she is eligible for severance pay under subsection 64 (1) and in calculating his or her severance pay under subsection (1). 2000, c. 41, s. 65 (2).

Exception

(2.1) Despite subsection (2), when an employee in receipt of an actuarially unreduced pension benefit has his or her employment severed by an employer on or after November 6, 2009, time spent in the employer's employ for which the employee received service credits in the calculation of that benefit shall not be included in determining whether he or she is eligible for severance pay under subsection 64 (1) and in calculating his or her severance pay under subsection (1). 2009, c. 33, Sched. 20, s. 1 (1).

Where employee resigns

(3) If an employee's employment is severed under clause 63 (1) (e), the period between the day the employee's notice of resignation took effect and the day the employer's notice of termination would have taken effect shall not be considered in calculating the amount of severance pay to

which the employee is entitled. 2000, c. 41, s. 65 (3).

Termination without notice

(4) If an employer terminates the employment of an employee without providing the notice, if any, required under section 57 or 58, the amount of severance pay to which the employee is entitled shall be calculated as if the employee continued to be employed for a period equal to the period of notice that should have been given and was not. 2000, c. 41, s. 65 (4).

Limit

(5) An employee's severance pay entitlement under this section shall not exceed an amount equal to the employee's regular wages for a regular work week for 26 weeks. 2000, c. 41, s. 65 (5).

Where no regular work week

(6) For the purposes of subsections (1) and (5), if the employee does not have a regular work week or if the employee is paid on a basis other than time, the employee's regular wages for a regular work week shall be deemed to be the average amount of regular wages earned by the employee for the weeks in which the employee worked in the period of 12 weeks preceding the date on which,

(a) the employee's employment was severed; or

(b) if the employee's employment was severed under clause 63 (1) (c) or (d), the date on which the lay-off began. 2000, c. 41, s. 65 (6); 2002, c. 18, Sched. J, s. 3 (26).

In addition to other amounts

(7) Subject to subsection (8), severance pay under this section is in addition to any other amount to which an employee is entitled under this Act or his or her employment contract. 2000, c. 41, s. 65 (7).

Set-off, deduction

(8) Only the following set-offs and deductions may be made in calculating severance pay under this section:

1. Supplementary unemployment benefits the employee receives after his or her employment is severed and before the severance pay becomes payable to the employee.

2. An amount paid to an employee for loss of employment under a provision of the employment contract if it is based upon length of employment, length of service or seniority.

3. Severance pay that was previously paid to the employee under this Act, a predecessor of this Act or a contractual provision described in paragraph 2. 2000, c. 41, s. 65 (8).

Instalments

66. (1) An employer may pay severance pay to an employee who is entitled to it in instalments with the agreement of the employee or the approval of the Director. 2001, c. 9, Sched. I, s. 1

(17).

Restriction

(2) The period over which instalments can be paid must not exceed three years. 2000, c. 41, s. 66
(2).

Default

(3) If the employer fails to make an instalment payment, all severance pay not previously paid shall become payable immediately. 2000, c. 41, s. 66 (3).