

Firing Right with Severance and Notice

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Bardal Factors

- Character of employment
- Length of service
- Age
- Availability of similar employment
- Experience, training and qualification of employee

Factors that Increase the Notice Period

- Inducement
- Protected ground requiring accommodation
- Industry recession
- Physical relocation

Factors that Decrease the Notice Period

→ Mitigation

Withdraw Offer after Acceptance

- Reasonable notice
 - Awards as high as 4-6 months
- Breach of fixed term contract

Undue Hardship

- Duty to accommodate until undue hardship
- No obligation to provide notice

Statutory Notice

- Alberta *Employment Standards Code*, s 56:
 - To terminate employment an employer must give an employee written termination notice of at least
 - a) 1 week, if the employee has been employed by the employer for more than 3 months but less than 2 years,
 - b) 2 weeks, if the employee has been employed by the employer for 2 years or more but less than 4 years,
 - c) 4 weeks, if the employee has been employed by the employer for 4 years or more but less than 6 years,
 - d) 5 weeks, if the employee has been employed by the employer for 6 years or more but less than 8 years,
 - e) 6 weeks, if the employee has been employed by the employer for 8 years or more but less than 10 years, or
 - f) 8 weeks, if the employee has been employed by the employer for 10 years or more.

Statutory Notice

- Alberta *Employment Standards Code*, s 55(2)(b):
 - Termination notice is not required when an employee has been employed by the employer for 3 months or less

Statutory Notice

- Alberta *Employment Standards Code*, s 54:
 - For the purposes of determining the correct termination notice to be given by an employer or employee or termination pay to be given by an employer, when an employee has been employed by the same employer more than once, the periods of employment with that employer are considered to be one period of employment if not more than 3 months has elapsed between the periods of employment.