



Pathfinder: Wrongful Dismissal

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Overview

The term "wrongful dismissal" generally refers to the termination of a non-unionized employee without proper cause and without reasonable notice or payment in lieu of notice. Wrongful dismissal law falls under the broader category of employment law, but also encompasses aspects of contract, tort and statutory law. The exception is Quebec where wrongful dismissal is governed by civil law as well as statutory requirements. (For further information about wrongful dismissal law in Quebec, see [Nice to Know](#).) In researching wrongful dismissal law, employment standards statutes should also be considered. In most Canadian jurisdictions, such legislation sets out minimum notice periods for termination of employees.

Textbooks

Harris, David, *Wrongful Dismissal*, 3 vols., looseleaf (Toronto: Carswell, 1989-). ([KF 3471 H37 1989](#)) Also online in Carswell's e-Reference Library available on Great Library workstations.

In-depth treatment of wrongful dismissal law includes chapters on employee status; types of dismissal; damages; related actions in tort and contract; unjust dismissal under the *Canada Labour Code* and employment contracts. Extensive case law annotations. Also contains notice award charts and legislation concordance.

Knight, James G., Lisa S. Goodfellow and Carman J. Overholt, *Employment Litigation Manual*, 2nd ed., looseleaf (Markham, Ont.: LexisNexis Canada, 2007-). ([KF 3457 K65 2007](#))

Part I provides a history of employment law in Canada and an overview of significant principles. Other sections offer in-depth, practical guidance on initiating, pleading and resolving wrongful dismissal claims. The last chapters deal with other types of employment litigation, including Canada Labour Code proceedings and wrongful dismissal law in Quebec. Relevant case law and legislation are cited throughout.

Levitt, Howard A., *The Law of Dismissal in Canada*, 3rd ed., looseleaf (Aurora, Ont.: Canada Law Book, 2003-). ([KF 3471 L48 2003](#))

Written for lawyers, human resource specialists and parties directly involved in the termination process. Part I covers all major aspects of the law relating to employee dismissal. Part II outlines strategies for claimants and defendants involved in wrongful dismissal actions and provides an overview for counsel of legal issues arising during the litigation process. Includes case annotations and tables of notice periods awarded.

Finding Books on Your Topic

A good place to begin your research on wrongful dismissal law is in a textbook. Some leading texts are listed here for your convenience. But there are many more.

To find a listing of further Great Library materials on wrongful dismissal, search the library's online [catalogue](#) under the relevant subject headings:

Employees--Dismissal of
Employees--Dismissal of--Law and Legislation--[jurisdiction]
e.g. *Employees--Dismissal of--Law and Legislation--Ontario*

Mole, Ellen E, *Wrongful Dismissal Practice Manual*, 2nd ed., 2 vols., looseleaf (Markham, Ont.: LexisNexis Canada, 2005-). ([KF 3471 M64 2005](#))

A practical annotated guide to employment relationships and terminations. Contains extensive information on defences, damages and remedies in wrongful dismissal actions. Also includes notice charts, practice tips, and precedents for termination documents and pleadings.

Sproat, John R., *Employment Law Manual*, 3 vols., looseleaf (Toronto: Carswell, 1990-). ([KF 3457 S67 1990](#)). Also online in Carswell's e-Reference Library available on Great Library workstations.

Part II of this manual examines the major aspects of wrongful dismissal law, including just cause and constructive dismissal, employment contracts, damages and tort liability. Part V contains practical advice for employers, employment contract precedents and sample termination letters. The manual is annotated with case law. Part V contains sample employment contracts and termination letters, as well as precedent pleadings for British Columbia and Ontario.

Continuing Legal Education Materials

A sampling of recent programs:

10th Annual Employment Law Summit (Toronto: Law Society of Upper Canada, 2009). ([KF 3320 .ZA2 E475 2009](#))

Six-Minute Employment Lawyer 2009 (Toronto: Law Society of Upper Canada, 2009). ([KF 3320 .ZB3 S594 2009](#))

8th Annual Current Issues in Employment Law (Toronto: Ontario Bar Association, 2009). ([KF 3320 .ZA2 O583 2009](#))

Non-culpable and Culpable Employee Terminations. Online (Toronto: InConference, 2008). Available on Great Library workstations.

Finding Continuing Legal Education Materials on Your Topic

Continuing legal education (CLE) or conference materials are a useful source of current and practical information. Some recent programs are listed on this page. To locate other CLE programs and papers on topic, there are several possibilities.

Try searching:

1. The Great Library's online [catalogue](#). (You can use the "Table of Contents" field to search for individual authors or words in titles of articles.) Once you have located a catalogue record for a publication of interest, note down its call number. The call number indicates where you will find the book in the library stacks.
2. The Canadian Law Symposia Index on LexisNexis Quicklaw at any of the library's workstations. CLSI indexes papers from selected Canadian and American CLE programs. Once you have found a record for a publication of interest, the next step is to look on the library's online catalogue to see if the book is available in the library.
3. InConference online database available on the Great Library's workstations. This database includes the full text of materials from hundreds of conferences presented by Insight Information.
4. [AccessCLE](#). Individual articles from the Law Society of Upper Canada's CLE programs can be purchased for download to your computer on this site.

Here are some suggested search keywords:

wrongful (also *unjust* or *constructive*)
dismissal

employee termination

employment litigation

reasonable notice

employment contract
damages for breach of contract
Wallace damages

Journals and Newsletters

The following publications regularly contain summaries of recent cases, news or articles on wrongful dismissal law:

Canadian Labour and Employment Law Journal (Lancaster House) ([Per](#))

Contains in-depth articles; issued 3 times per year

Dismissal and Employment Law Digest (Canada Law Book) ([Rpts Can Subj](#))

Newsletter providing summaries of recent decisions; cross-referenced to sections of [Levitt, *The Law of Wrongful Dismissal in Canada*](#).

Employment and Labour Law Reporter (LexisNexis Canada) ([KF 3320 .ZA2 B747](#))

Monthly newsletter of articles and case commentaries. (Available in print or by e-mail)

Employment Bulletin (Canada Law Book) ([KF 3457 .A15 E46](#))

Monthly newsletter of articles on recent employment law issues

The Employment Law Report (Canada Law Book) ([KF 3320 .ZA2 E46](#))

Monthly newsletter of case commentaries

Lancaster House Wrongful Dismissal Netletter (LexisNexis Quicklaw)

Weekly online newsletter of recent cases

Wrongful Dismissal E-Bulletin (Lancaster House)

E-mail alert service available from the publisher

Finding Journal Articles on Your Topic
To search for articles by subject within these publications and others, use the *Index to Canadian Legal Literature* (Available on Quicklaw and Westlaw Canada or in print)

Online Case Law Collections

Employment Law Court and Tribunal Decisions - Topical (LexisNexis Quicklaw)

Database of all non-union employment law decisions from Quicklaw's court and tribunal full text and summary sources

Canadian Cases on the Law of Employment (Westlaw Canada)

Online version of Carswell's topical law report series carries full-text cases, as well as articles and case commentaries.

Legislation

In addition to common law precedent, termination notices and pay in lieu thereof are governed by

provincial employment standards legislation. These statutes set out the minimum conditions and requirements for employment relationships, including notice periods for employee termination.

A listing of relevant legislation can be found in [Mole, *Wrongful Dismissal Practice Manual*](#), (see Chapter 13, "Statutes and Regulations"). Full text of current employment standards statutes can be found on individual government websites (for a list of links, see [Canadian Legislation Online](#)) or on [CanLII](#). The titles of provincial and territorial statutes may vary, e.g. "Employment Standards Act" or "Labour Standards Act."

Ontario

[Employment Standards Act, 2000, S.O. 2000, c.41](#)

Part XV, Termination and Severance of Employment

Federal

[Canada Labour Code, R.S.C. 1985, c.L-2](#)

Part III, Standard Hours, Wages, Vacations and Holidays

The *Canada Labour Code* governs federal jurisdiction employers.

Other Legislation

Wrongful dismissal actions may also be affected by federal and provincial human rights legislation as well as provincial labour (trade union), health and safety and workers' compensation statutes. For further information, see [Knight, *Employment Litigation Manual*](#) at §§ 2.39-2.61, "Legislative Framework."

Nice to Know

Where to find a chart setting out reasonable notice periods

In determining reasonable notice, courts typically consider such factors as an employee's position, age, salary and length of service. Tables found in the following sources provide brief records of wrongful dismissal cases showing the determining factors and the awarded notice period. Most notice charts are organized by broad job categories, such as clerical, executive, general labour, etc.

Print Sources

Harris, David. *Wrongful Dismissal*, 3 vols., looseleaf (Toronto: Carswell, 1989-).
([KF 3471 H37 1989](#))

See §4.36 "Chart Periods of Notice Awarded"

Levitt, Howard A. *The Law of Dismissal in Canada*, 3rd ed., looseleaf (Aurora, Ont.: Canada Law Book, 2003-). ([KF 3471 I48 2003](#))

See §8.160.10, "Decisions determining what is reasonable notice"

Mole, Ellen E. *Wrongful Dismissal Practice Manual*, 2nd ed., 2 vols., looseleaf (Markham, Ont.: LexisNexis Canada, 2005-). ([KF 3471 M64 2005](#))

See Tab 8 "Charts of Reasonable Notice Periods"

Online Sources

Wrongful Dismissal Notice Searcher (LexisNexis Quicklaw; search WDNS database)

Searchable by employment factors (age, occupation, length of service, etc.) and keywords. Case citations link to the full-text decisions on Quicklaw.

Fisher, Barry. *Wrongful Dismissal Database* ([Available in the Great Library](#))

Allows users to generate a list of cases meeting specific search parameters, such as occupation,

jurisdiction, age and years of service.

[Ontario Civil Litigation Resource Centre](#) – Wrongful Dismissal Resources Page. (Free registration required)

Notice tables organized by job title

Where to find information on wrongful dismissal law in Quebec

Audet, Georges and Robert Bonhomme, *Wrongful Dismissal in Quebec* (Cowansville, Que.: Editions Yvon Blais, 1990). ([KF 3471 A93 1990](#))

Aust, A. Edward and Lyse Charette, *The Employment Contract*, 2nd ed. (Cowansville, Que.: Editions Yvon Blais, 1993). ([KF 3457 A97 1993](#))

Le congédiement au Québec: Toutes les informations, les conseils et l'expertise dont vous avez besoin pour gérer congédiements et licenciements. Online (Toronto: InConference, 2005). Available on Great Library workstations.

Knight, James G. *Employment Litigation Manual*, 2nd ed., looseleaf (Markham, Ont.: LexisNexis Canada, 2007-). ([KF 3457 K65 2007](#))

See Chapter 27, "Employee Dismissals in Quebec"

Last reviewed: August 12, 2010

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