

Termination of permanent employment contract

What you need to know :

There are various conditions under which an employment contract can be terminated, either by the employee or by the employer, and specific rules are applicable to each situation.

► Resignation



Information

The employee must express his/her wishes in writing and it is recommended to confirm receipt.

Initiated by the employee, this is not subject to any specific procedure but must be in accordance with the employee's genuine and unequivocal wishes. Otherwise, it might be requalified as dismissal.

Resignation does not have to be accepted or refused by the employer.

The date of resignation marks the starting point of the notice period.

► Dismissal

This is initiated by the employer and must be based on real and justified reasons. It may include :

- Dismissal for personal reasons, based on a cause directly pertaining to the employee, whether based on misconduct or not,

- Dismissal for economic reasons not inherent in the employee him/herself but justified by the company's position. Dismissal for economic reasons may be individual or collective.

Whatever the reason for the dismissal, the employer must follow a strict procedure, which includes in particular :

- Invitation to a preliminary interview,
- Interview,
- Delivery of dismissal letter,
- Notice period,
- Determination of severance pay.

In the event of a dispute, a settlement agreement may be signed.



Sanction

Unjustified grounds for dismissal may result in the payment of significant damages.



Advice

Ask us before you start a dismissal ; the procedures are complex and specific to each type of dismissal.



Information

N.B.: some employees have special protection from dismissal.

► Retirement

This can be initiated by the employer or the employee.



Advice

Ask us about the procedures and payments.

► Constructive dismissal

The employee can use constructive dismissal as the basis of the termination of his/her employment contract due to facts attributed to his/her employer.

If the facts are serious enough, the termination is considered to take the form of unfair dismissal. Otherwise, it is a resignation.

► Mutually agreed termination

Mutually agreed termination represents a joint wish for termination. It cannot be imposed by either party.

It requires a three stage procedure :

- One or more interviews between the parties,
- The signature of an agreement between the employer and the employee which defines the terms of the termination, including in particular the severance pay and date,
- The recognition of the agreement by the Direction régionale des entreprises, de la concurrence, de la consommation, du travail et de l'emploi (DIRECCTE), which allows the employee to receive unemployment benefits.



Advice

Ask us about the procedure for mutually agreed termination.



Information

Payments made for mutually agreed termination are subject to a social contribution called « Forfait social » (20 % of the allowance).

► Documents to be given to the employee on termination of employment contract

Certificate of employment.

Declaration for the Pôle emploi (French employment agency). A duplicate of this declaration must be sent directly by the employer to the Pôle emploi.

A final statement which must indicate in detail all the sums paid on termination. It can be contested within 6 months after signature. After that, it represents full and final settlement by the employer for the sums mentioned.



Sanction

The loss sustained by an employee further to the late delivery of these documents, can lead to payment of damages.