Resignation - how much notice?

When an employee resigns, they may have to give notice to their employer. The notice period:

- starts the day after the employee gives notice that they want to end the employment
- ends on the last day of employment

An employee’s award, enterprise agreement, other registered agreement (http://www.fairwork.gov.au/Dictionary.aspx?TermID=2034) or employment contract may set out how much notice (if any) they have to give when they resign. Employees should check the terms of these documents for information.

Under the Fair Work Act an award and agreement free (http://www.fairwork.gov.au/awards-and-agreements/award-and-agreement-free) or enterprise agreement may set out how much notice an employee has to give to their employer before resigning. However, they may need to give their employee notice within their employment contract.

If an employee’s contract is silent about notice, or the employee doesn’t have a written contract, the employee might need to give their employer reasonable notice.

Visit our Employment contracts (http://www.fairwork.gov.au/awards-and-agreements/employment-contracts) page to find out where to get more information about employment contract terms and conditions.

See our Notice and final pay (http://www.fairwork.gov.au/Ending-employment/notice-and-final-pay) page for more information about minimum notice requirements or select your award from the list below:

An employment contract cannot provide for less than the legal minimum set out in awards and agreements. Visit Employment contracts (http://www.fairwork.gov.au/awards-and-agreements/employment-contracts) page to find out where to get advice about any other terms and conditions in the contract.

What happens after an employee gives notice?

Once an employee gives their employer notice, the employer should make sure the amount of notice is correct.

An employer doesn’t have the choice to accept or reject an employee’s resignation. Usually employers will acknowledge an employee’s resignation on another day or the day after the employee gives notice, and may extend the employee’s employment period until the end of the notice period, when their employment ends.

When the employer doesn’t want the employee to work through the notice period

If an employer doesn’t want an employee to work out the notice period, they should first check the terms of their award, enterprise agreement, other registered agreement or employment contract.

To find out more about what employees need to do, go to “What happens when an employer doesn’t want an employee to work through a notice period” (http://www.fairwork.gov.au/Ending-employment/unfair-dismissal) page to find information about minimum notice requirements or select your award from the list below.

An employee can take paid annual leave during a notice period if the employer agrees to the leave.

No paid sick leave left

An employee who has used up all their paid sick leave may be able to take unpaid leave. They would have to give the employer notice.


Think a mistake might have been made?

For employees:

- discrimination (http://www.fairwork.gov.au/Employee-entitlements/Protections-at-work/discrimination-at-work);
- a failure to pay the award rate of pay; or
- another protected right.

You have 21 days starting from the day after the day you were dismissed to lodge an application with the Fair Work Commission. Check the information on the Commission’s website to find out if you can apply for:

- a general protections dismissal (http://www.fwc.gov.au/termination-of-employment/generic-protections-dismissal);

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Best practice tip


What to do next:

- For employers:
  - check the right Notice and final pay (http://www.fairwork.gov.au/Ending-employment/notice-and-final-pay) has been given;
  - read our Help resolving workplace issues (http://www.fairwork.gov.au/Help-resolving-workplace-issues) section for practical advice on:
    - talking to your employer about fixing your notice and final pay if it’s wrong
    - getting help from us if you can’t receive it.

- For employees:
  - check the right Notice and final pay (http://www.fairwork.gov.au/Ending-employment/notice-and-final-pay) has been given;
  - read our Help resolving workplace issues (http://www.fairwork.gov.au/Help-resolving-workplace-issues) section for practical advice on:
    - talking to your employer about fixing your notice and final pay if it’s wrong
    - getting help from us if you can’t receive it.

What to do next:

- Check an agreement on the Fair Work Commission’s website (http://www.fwc.gov.au/awards-and-agreements/agreements) to find out more about any other terms and conditions in the contract.

Help for small businesses


You might also be interested in:
