



Terminating a Worker's Employment Contract

Terminating a worker's employment contract is a serious step that if handled badly, can result in penalties being imposed on an employer by industrial tribunals, as well as embarrassing and damaging publicity. For this reason, it is essential that managers take the right approach from the outset.

If after it has been determined the problems behind a worker's poor performance are personal, rather than organisational, and counselling and more formal disciplinary procedures have been instituted and have not resulted in an improvement in performance, a decision may be made to terminate the worker's employment contract.

Manager's checklist for terminating an employment contract

1. Establish if the organisation is prepared to defend the matter should it be subject to wrongful dismissal proceedings in the relevant tribunal.
2. Ensure a senior person from the organisation has investigated the cost of recruitment and training a replacement employee.
3. Begin a termination interview with the employee by informing him/her a serious matter has to be discussed and ask him/her if he/she would like a witness present.
4. Explain the reasons for termination.
5. Show the employee a copy of any policies he/she has breached.
6. Inform the employee of previous counselling and warnings, when these took place, and of any diary notes, such as commitments he/she had given to improve his/her performance.
7. Inform the employee in writing that his/her employment contract will be terminated on (date) and of the reason(s) for termination, and ask him/her to sign the document and give him/her a copy. If the employee refuses to sign, one of the witnesses should be asked to acknowledge that the termination took place. The employee may also request an Employment Separation Certificate to provide to Centrelink.
8. Make diary notes of the interview in case the termination is contested at a later date.