

FREE GUIDE · LEXALTICO LLP

Severance Pay in Ontario What You Are Actually Owed

Ontario severance pay explained: ESA severance vs common law notice, how much you are owed, and what to do with your severance offer. Updated 2025.

Severance Pay in Ontario What You Are Actually Owed

Most Ontario employees receive severance offers that fall far below their legal entitlement. This guide explains the two layers of severance - ESA minimums and common law notice - and the difference between them, which can be worth tens of thousands of dollars.

What's in this guide

- The two layers: ESA and common law
- ESA termination and severance pay
- Common law notice - how it is calculated
- What to do with your offer
- Negotiating your severance
- Connection to wrongful dismissal
- FAQs

1. The Two Layers of Severance Pay

- 1 week/year of service
- Maximum 8 weeks termination pay
- ESA severance: 1 wk/yr if 5+ yrs AND payroll over \$2.5M (max 26 wks)
- Absolute minimums - cannot be waived
- Based on age, service, position, market
- Approximately 1 month per year of service as a starting point
- Maximum approximately 24 months
- Almost always higher than ESA minimums

2. ESA Termination Pay and Severance Pay

3. Common Law Notice - How It Is Calculated

Common law notice is determined by courts using the Bardal factors:

4. What to Do With Your Severance Offer

You are almost never required to sign right away. Take the offer home. There is no legal obligation to decide on the spot.

If you received a verbal offer, ask for the full terms in writing before responding or consulting anyone.

Your contract may contain a termination clause limiting you to ESA minimums. Many such clauses are legally unenforceable - a lawyer can assess yours.

Apply immediately after termination. Delays cost you weeks of benefits.

5. Negotiating Your Severance Package

6. Severance Pay and Wrongful Dismissal

If your employer offered inadequate severance (less than your common law notice entitlement), you have been wrongfully dismissed - even if the termination itself was lawful. The remedy is the common law notice amount you should have received.

You have two years from the date of termination to make a wrongful dismissal claim in Ontario court. Do not wait - limitation periods run from the date you were terminated, not the date you signed (or did not sign) a release.

7. Frequently Asked Questions

Just Received a Severance Offer?

Our lawyers offer free initial consultations — no obligation to retain.

NEED TO SPEAK WITH A LAWYER?

Every situation is different. If anything in this guide raises a question about your own matter, speak with a Lexaltico lawyer — the first 30-minute consultation is free and confidential.

Call: +1 416 333 6200 **Email:** hello@lexaltico.com **Web:** lexaltico.com