



One of the biggest misconceptions in employment law is that a [wrongful dismissal](#) occurs when an employee is let go for the wrong reason. A wrongful dismissal, however, has nothing to do with the way an employee is let go, or whether a termination is justified. Wrongful dismissals are so common that an employee could be wrongfully dismissed and not even realize it. To find out what a wrongful dismissal is, and what it is not, read on.

What is wrongful dismissal?

A wrongful dismissal occurs when an employee is [terminated without cause](#) and they are not provided [severance](#), or they are not provided with *enough* severance by their employer when they are let go. It does not refer to how an employee is let go or even why an employee is let go. What matters is whether the employee was provided with the appropriate amount of severance.

Another example of wrongful dismissal can occur when an employee is [terminated for cause](#) and not provided severance. In this case, if the employee's misconduct was not severe enough to justify the termination for cause, the employee has been wrongfully dismissed.

Wrongful dismissal can be confused with [constructive dismissal](#), but the two have very different meanings. Constructive dismissal occurs when an employer makes significant changes to an employee's duties, hours, pay, or other terms of employment, but has not explicitly fired the employee. In this case, the employer has illegally altered the employee's original terms of employment, and an employee can therefore treat their employment as being terminated. For example, constructive dismissal could occur when an employer reduces an employee's wages

by more than 10%. By making a claim for constructive dismissal you can leave your job with the maximum amount of compensation that you are entitled to you in the form of your full severance pay.

Another term in employment law that could be confused with wrongful dismissal is “unjust dismissal”. An unjust dismissal refers to a situation where a [federally regulated employee](#) has been let go but believes the termination to be baseless or unfair. Federally regulated employees include individuals who work for federally regulated businesses such as banks, telecommunications companies, air and rail transportation services, and all Crown corporations. The *Canada Labour Code* gives federally regulated employees the option to claim unjust dismissal when they are dismissed and can result in reinstatement to their job, with back pay.

How do I know if I’ve been wrongfully dismissed?

Over 90 percent of employees who are let go are not offered the appropriate amount of severance. If you were let go from your job and given a severance offer by your employer, chances are that you were wrongfully dismissed. Employers often try to save money by making low-ball severance offers to employees when they let them go. You don’t have to accept a severance offer on the day it is made, or even by your employer’s deadline. You can have your severance offer reviewed by an [employment lawyer at Samfiru Tumarkin LLP](#) before signing, to find out if what you’ve been offered is fair.

Am I entitled to compensation?

All non-unionized employees who are let go are entitled to notice, or pay in lieu of notice, also known as severance pay. This is true unless you are terminated for cause, or if your employment contract restricts the amount of severance your employer has to pay through a termination clause.

In some cases, when an employee is [terminated for cause](#), the ‘for cause’ termination may not be justified, and you may still be owed severance. If you’re an employee in Ottawa who has been let go, you can have your employment contract and severance offer reviewed by a member of our team to find out more about whether you’re owed compensation, and how much you’re owed.

How do you calculate severance pay?

[Severance pay in Ontario](#) is calculated by considering a number of factors, including your age, position, and length of employment. Other factors that could affect your severance also include commission, salary bonuses, vacation pay, car allowances, and pension. If you’d like to find out more about how much you could be owed, visit our free and anonymous [Severance Pay Calculator](#).

Can an employment lawyer in Ottawa help me?

If you work in Ottawa and you've been let go, an [employment lawyer at Samfiru Tumarkin LLP in Ottawa](#) can help you regardless of whether you live in Quebec or Ontario. You have two years from the moment you are let go to start a claim for [wrongful dismissal in Ontario](#). Most cases are resolved quickly through negotiation before they go to court.

[Alex Lucifero](#), an [Ottawa wrongful dismissal lawyer](#) and partner at [Samfiru Tumarkin LLP](#), successfully argued a [wrongful dismissal claim for an Ottawa-area dental hygienist](#) in 2018 when her employer's practice was sold to a new owner. Although the 33-year employee was offered a job with the new owner, she was asked to sign a new and unfavourable [employment contract](#). As a result of the wrongful dismissal claim, Lucifero was able to secure 24 months' pay in severance for the dental hygienist. If you think you've been wrongfully dismissed in Ottawa, [contact Samfiru Tumarkin LLP](#).