

Bereavement Leave

Bereavement leave is made up of two sections:

- **Unpaid Leave for Death of a Family Member** allows employees unpaid time off to deal with the death of a family member, without fear of job loss.
- **Unpaid Leave for Loss of Pregnancy** allows employees unpaid time off to deal with the loss of a pregnancy, without fear of job loss.

How long can employees be off on bereavement leave?

Under *The Employment Standards Code*, employees are allowed to take up to five days as bereavement leave to deal with the death of a family member and up to five days to deal with the loss of a pregnancy.

Who can take bereavement leave?

Anyone employed for at least 30 days with the same employer is entitled to bereavement leave.

Who decides what type of leave an employee is taking?

Employees tell their employers what leave they are taking. The employer will need enough detail to show the time off work meets the requirements of the leave.

When employees require time off, the employer should ask whether they are advising of a leave available under *The Employment Standards Code*. Employers do not control when employees can take a leave provided by law, but they do control other types of time off work.

Do employees need to be paid while on bereavement leave?

No. The legislation only requires an employer to provide time off and allow an employee to return to their job when the leave has ended. Employers are not required to pay wages during the leave. Employers can, and often do, give greater benefits than those provided for in the legislation.

Who are considered family members?

Family is defined very broadly for Employment Standards' purposes. Children, stepchildren, parents, grandparents, spouses, common law spouses, brothers, sisters, step-brothers, step-sisters, aunts, uncles, nieces and nephews are all considered family members. The definition also includes those who are not related, but whom the employee considers to be like a close relative.

Who is eligible for unpaid leave for loss of a pregnancy?

- The employee who experiences a loss of pregnancy
- That employee's current spouse or common-law partner
- That employee's former spouse or common-law partner
 - ◆ The former spouse or common-law partner's current spouse or common-law partner
- An employee who had undertaken to be the guardian of the child born as a result of the pregnancy
 - ◆ That employee's spouse or common-law partner

What must employees who take bereavement leave tell their employer?

Employees must tell their employer, before taking the leave, which days they will need off. They must also indicate which part the leave they are taking (death of a family member or loss of pregnancy). Employers can request reasonable verification that the leave is needed.

What is reasonable verification?

Employers may require reasonable verification of the need for the leave. Reasonable verification for bereavement leave might be an obituary from a local newspaper, for example.

Can employees take part of a day as bereavement leave?

When an employee takes part of a day for bereavement leave, the employer may count that as a full day of the leave. Employers do not have to accommodate an employee taking the leave in part days, as long as they allow the employee to take the leave.

Can employees be fired or laid off because they take bereavement leave?

No. Employers cannot terminate or lay off employees because they have taken or are planning to take a leave.

What happens when the leave ends?

Employees must be allowed to return to their job, or a comparable job with the same or greater benefits and pay, when they return from leave. Employers may not discriminate or attempt to punish employees for taking a leave.

Can employers give paid leave or more time off?

Yes. Employers can, and often do, give greater benefits than those provided for in the legislation. Many employers provide more days or will pay employees for their leave.

What happens to pension and other benefits while an employee is on leave?

Employment is considered continuous during a legislated leave of absence from work. This means an employee is still employed, though not earning wages for the period of the leave. When employees return from the leave, they are still entitled to any pension and other benefits they had before the leave. As well, their years of service include the time away on the leave.

Will the information about the leave be confidential?

Unless it is required by law or the employee has given consent, employers cannot disclose information related to a leave except to other persons in the workplace, who need to know in order to carry out their duties.

What is a period of employment?

The period of employment is the length of time from when an employee starts working for an employer until the day the employment ends.

The period of employment also includes periods of temporary interruption in employment (a layoff, an unpaid leave), seasonal employment, and when an employee returns to work for the same employer after a break of less than two months.

Employees who work in a seasonal industry and return to work with the same employer each season have continuous service. Each consecutive season they return adds one more year of service to their total period of employment.

Layoffs and Periods of Employment

It is important to know how to determine an employee's period of employment because wages in lieu of notice is based on their length of employment.

When layoffs are longer than 8 weeks in a 16-week period, they become terminations and wages in lieu of notice is required. The employment is deemed to have been terminated without notice on the first day of the layoff.

The actual date on which a layoff began does not change because a state of emergency is declared or a state of emergency ends. For example:

- If an employee was laid off on February 18, 2020 and the layoff eventually became a termination, the period of employment will be deemed to have ended on February 18, 2020.
- However, if an employee was laid off on July 8, 2020 and the layoff eventually became a termination, the period of employment will be deemed to have ended on July 8, 2020.

For more information contact Employment Standards:

Phone: 204-945-3352 or toll free in Canada 1-800-821-4307

Fax: 204-948-3046

Website: www.manitoba.ca/labour/standards

This is a general overview and the information used is subject to change. For detailed information, please refer to current legislation including The Employment Standards Code, The Construction Industry Wages Act, The Worker Recruitment and Protection Act, or contact Employment Standards.

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