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OVERTIME > YOUR BUSINESS

Operation terminate

How to humanely deliver those dreaded little words, "You're fired!"

Donald Trump may make it look like fun, but firing an employee is about as easy as successfully pulling off a comb-over. Sure it sounds simple – just point your finger and shout "You're fired!" – but many employers will tell you it's anything but.

To begin with, you may not actually want to let the person go. The recession has fueled massive cutbacks in the past year, forcing many business owners to downsize staff, whether they want to or not.

Certainly, it's been a busy time for Thomas Ross, a partner who specializes in labour and employment law at McLennan Ross. He says the firm's lawyers frequently advise both employees and employers on the ins-and-outs of job termination, but adds the poor economy has made this year busier than normal.

"[Firing someone] is a stressful exercise both for employers and employees and it's something that you want to make sure you do right," he says. "First of all, to protect your financial liability as an organization, but also because in most cases you want it to be as easy as possible for the employee."

One of the fundamental questions employers need to ask themselves before firing somebody is whether there's just cause, says Ross. When there's just cause – say the employee has been caught stealing – firing somebody is a lot easier, both legally and emotionally. When there's not – per-

haps the company needs to cut expenses – the checklist of considerations grows.

That's because without just cause an employer has a financial obligation to an employee. Ross suggests checking the jurisdiction's Employment Standard Act for legislated – but bare minimum – employer-employee obligations.

Employers must also

consider whether there is an employment agreement in place specifying financial obligations to employees. Agreements are a handy thing to have. As Ross says, with an agreement "there's very little uncertainty and everyone knows what to expect – and there's less likelihood of getting into a dispute or litigation."

With or without them, though, an employer will still need to consider what lawyers call "reasonable notice," which is determined by looking at an employee's background factors, things like age, job seniority, position and salary are all used to pinpoint how long it will take the employee to find comparable employment. From there, the employer can figure out what kind of termination package to offer and how it will work.

"It's important that these things be done at the outset, that you consider everything in advance, that you be as organized as possible," say Ross, who adds employers should also consider termination letters, release



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agreements and when and who will do the firing. If employers are really stuck, they can also consult an outplacement firm, which can help communicate job termination, provide financial advice to the fired employee, and help them find a new job – a great comfort to employees.

"You want to [fire somebody] in a way that is kind and humane, so that people don't feel they're treated harshly – not only for their own sake but also for the sake of your company's reputation," says Ross. Because, really, nobody wants to be like Donald Trump.

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