TEMPORARY LAYOFF-SHORTAGE OF WORK SAMPLE LETTER

The purpose of this document is to provide you with guidelines and a sample letter if you are considering a temporary layoff as an option for your business.

Any business documentation should always be carefully reviewed and should take into consideration the provincially applicable Employment Standards Act and Human Rights' legislation. We recommend that businesses review any sensitive issues with a qualified/certified professional (i.e. labour lawyer) should they want the document to be legally binding.

Recommendations for using CFIB templates:

<table>
<thead>
<tr>
<th>Should you already have layoff provisions in your employee’s employment contract:</th>
<th>Should you NOT have any layoff provisions in your employee’s employment contract:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Speak to the employee about the business situation.</td>
<td>1. Verify the Act and check with a BR counsellor if you should request an exemption/variance of labour laws from your Ministry of Labour (MLO)/Employment Standards legislation Act Director in advance.</td>
</tr>
<tr>
<td>2. Let them know what their future income options are and where they can find them.</td>
<td>2. Consult with your employment lawyer about temporary layoffs, if they are the right choice for your employees, your business and your financial wellbeing. Ask your lawyer about potential risks of constructive dismissals and how to mitigate this risk. Your lawyer may recommend that you present your employee(s) with another letter prior to initiating the temporary layoff.</td>
</tr>
<tr>
<td>3. Provide them with a temporary layoff letter and have them sign and date it in acknowledgement.</td>
<td>3. If after consultation with your lawyer, you find that temporary layoffs are the best choice for you, you may use the below template as a guide to draft your temporary layoff letter and hopefully save you billable time with your lawyer.</td>
</tr>
<tr>
<td>4. Ensure that you and the employee have a copy of the signed temporary layoff letter. This will be to clarify any misunderstanding or could provide you with an advantage in legal proceedings.</td>
<td>4. Before presenting the letter, share with the employee the business situation, provide them with a temporary layoff letter and have them sign and date it in acknowledgement.</td>
</tr>
<tr>
<td>5. Let them know what their future income options are and where they can find them.</td>
<td>5. Let them know what their future income options are and where they can find them.</td>
</tr>
<tr>
<td>6. Should the employee not agree to the letter or refuse to sign, consult your lawyer before proceeding.</td>
<td>6. Should the employee not agree to the letter or refuse to sign, consult your lawyer before proceeding.</td>
</tr>
</tbody>
</table>
How to read & customize this template:

- Words in [red] must be replaced by information specific to your business and/or province.
- We have also included some optional tips; they are to be deleted before printing this document.

Important Notes:

- Don't forget that this template is an interim tool specifically design for use during the COVID-19 pandemic and should not be utilized outside of this context.
- As a member of CFIB, your membership gives you access to our business support services. Our Counsellors can assist members when customizing these documents, but it is always recommended that the final draft be reviewed with a qualified/certified professional (i.e. labour lawyer).

Need customized advice? Contact us!
1 888 234-2232 | cfib@cfib.ca

This template is provided to you for information purposes only. CFIB cannot be held responsible for its final content or for any subsequent use and interpretation thereof by the company or a third party.

We suggest that you remove this introductory page when preparing your company’s letter.
[Date]
[Name]
[Address]

Re: Notice of temporary layoff

Dear [Employee Name];

As discussed with you today, considering the current Covid-19 emergency provisions ordered by the government and its impact on our business, we are unfortunately now faced with the need to reduce the size of our workforce. This letter is a formal notice that as of [date (ensure to include notice based on provincial requirements)] you will be temporarily laid off from [name of business].

Temporary Layoff Pay

You will receive regular pay up to and including [date (notice as per required in province)]. You will receive all earnings owing [ex/including] any outstanding [payments i.e. bonus/commissions etc.] as itemized below. If you wish to be paid your accrued vacation to date, please send a written request to [employer’s email] by [date] so we may include that in your final pay period.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regular Wages:</td>
<td>$</td>
</tr>
<tr>
<td>Bonus/Commissions: (if applicable)</td>
<td>$</td>
</tr>
<tr>
<td>Vacation Pay: (if applicable)</td>
<td>$</td>
</tr>
<tr>
<td>Total:</td>
<td>$</td>
</tr>
</tbody>
</table>

Group Benefits

Your participation in any group benefits plan will [xxx insert rules based on your specific provider and compensation plan]. (Note that cancelling benefits can be in non-compliance with the Employment Standards Act/Human Rights Act. Some provinces may allow the cancellation/pausing of benefits if the employee requests it in writing).

Employment Insurance

We encourage you to start the application online with Service Canada for Employment Insurance (E.I.) benefits as soon as possible by visiting the Service Canada website. We will be issuing a Record of Employment (ROE) with a reason code for layoff/shortage of work after your final pay is issued on [date]. You may begin the application process prior to receiving a copy of the ROE by providing Service Canada with your previous pay stubs and you are encouraged to review all the applicable Government support program available to you at this time.

Recall to Work
It is difficult to determine how long the COVID-19 pandemic will last and how it will impact our business’ ability to operate. Our intent is to call you back to work as soon as possible. At this time, we estimate that this temporary layoff will continue for [# days/weeks/months as per provincial limitations]. If a return to work is possible within this timeframe, we will contact you at the phone number/email you have provided us. Should that occur, you would be expected to return to work within [xx] days. If you fail to respond within this timeframe, we will have no alternative but to consider your non-response as a resignation without notice from [name of business] and no notice or payment in lieu of notice will be provided.

Should you secure work elsewhere during this temporary layoff period and after careful consideration you do not intend to return to work for us, we request that you please inform us by submitting your resignation via email to [email address].

**End of Employment Due to Lack of Work**

While our hope is to be able to provide a return to work in the short term, should this temporary layoff extend past [xxx] weeks, as specified in the [provincial Employment/Labour Standards] your employment with [name of business] will be terminated for shortage of work. [Name of business] will then pay you per as per the [name of Employment Standards Act forthwith].

In the interim, we request that you return all property of [name of business], including any keys, equipment, technologies, devices, credit cards, petty cash, etc. (as applicable) to [name & drop off location].

Should any of your contact information change during this period, we ask that you keep us informed so we may keep in touch with you and be able to notify you immediately if you are recalled back to work. If you have any questions regarding this notice or any other concerns, please do not hesitate to contact [name] at phone.

Best regards,

[Name, Title]
[Business Name]

---

I, _____________________________, acknowledge that I have read and understood this temporary layoff letter [and its’ addendums (if applicable)]:

- (Provincial Employment Standards Act Temporary Layoff Clauses)
- List any additional addendums if applicable)

_____________________________________________   _________________________________
Employee - Signature   Date (mm/dd/yyyy)

The original copy is given to the employee and the employer retains a photocopy for their files.