



TEMPLATE LETTER Written Notice of Termination in accordance with the NES

User Directions

QHA's template letter has been drafted with the National Employment Standards in mind, specifically section 117 which provides:

117 Requirement for notice of termination or payment in lieu

Notice specifying day of termination

- (1) *An employer must not terminate an employee's employment unless the employer has given the employee written notice of the day of the termination (which cannot be before the day the notice is given).*

The above section requires an employer to provide written notice of termination, and that the termination cannot be before the written notice is given. QHA therefore recommends that written notice is given at the time termination is advised to the employee*. The notice may be given to an employee by delivering it personally; leaving it at the employee's last known address; or by sending it by pre-paid post to the employee's last known address.

* Please note that an employer should not have any termination letter ready to give to an employee until the employee has been given the opportunity to respond to the concerns being raised with them and the employer has taken the opportunity to consider the response.

Only after this point when a decision to terminate has been made (having considered the response given) should this template letter be completed and given to the employee. In such a case, the employer should leave the meeting room to complete it – as opposed to having it with them prior to the meeting.

By having the letter completed before the employee is given an opportunity to respond, it is likely to be taken that the employer was never intending to follow a proper and genuine process and had decided on their course of action prior to the employee having an opportunity to respond to the concerns held about them. In such a case the employee may then seek to lodge an Unfair Dismissal claim.

Section 123 provides that the termination of the below arrangements are not subject to section 117:

- an employee employed for a specified period of time, a specified task, or for a specified season;
- an employee whose employment is terminated because of serious misconduct;
- a casual employee;
- an employee (other than an apprentice) to whom a training arrangement applies and whose employment is for a specified period of time or is limited to the duration of the training arrangement;
- an employee prescribed by the regulations as an employee to whom this Division does not apply.

NOTE: Once the template letter is amended, it represents a termination letter tailored to a specific workplace, and QHA will not accept any liability or responsibility for the content of the tailored letter.

INSTRUCTIONS:

1. Fill in the applicable text where requested via the "<" and ">" sections in red.

<place on company/Hotel letterhead>

<insert date>

<insert name of employee>

C/- <insert name of Hotel>

Hand Delivered

Dear <insert name of employee>

In accordance with the National Employment Standards as enshrined in the *Fair Work Act 2009*, this letter serves to confirm the termination of your employment as advised to you on <insert date termination was advised – termination cannot be before the day this notice is given>.

Your employment has been terminated on the basis of: <insert one of the following only (do not use any other reasons) – conduct (including performance), capacity or serious misconduct>

A more detailed letter to again confirm the termination of your employment, including the process followed in reaching the decision to terminate, shall be provided to you in the next few days.

Yours sincerely

<insert name of person advising of the termination>