



Employment Contracts and Employee Rights

Urban Municipal Administrators Association of Saskatchewan

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Employment Contracts

The employment relationship is a contractual one regardless of whether or not a formal employment agreement is signed.

Absent a written document, an employer and employee have an agreement to perform certain duties for a specific sum of remuneration.

Courts and other administrative bodies will uphold such verbal bargains

Employment Contracts

Benefits of a Written Employment Agreement

- Defining the job description and duties expected
- Specifying termination entitlements
- Setting out and/or referencing internal policies regarding expenses, benefit plans and other perquisites affiliated with the employee relationship
- Clarifying all aspects of compensation including base pay, bonuses, commissions and the like
- Modify terms implied by law and create terms not implied by law

Employment Contracts
Standard Terms

Title/Position



LAW



Employment Contracts
Standard Terms

Title/Position

“The Municipal Council hereby agrees to hire John Doe as ***Town Administrator.***”



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Employment Contracts *Standard Terms*

Title/Position

“The Municipal Council hereby agrees to employ John Doe as ***Town Administrator***. The Town Administrator position is an ***out-of-scope employee*** position.”

Employment Contracts
Standard Terms

Start Date/End Date



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Employment Contracts

Standard Terms

Start Date/End Date

“This Contract shall continue from the date that John Doe assumes his duties until such time a new contract is signed. This Agreement comes into effect as of January 1, 2025.”



Employment Contracts

Standard Terms

Start Date/End Date

“The term of employment shall **commence** on June 1, 2024 and shall **terminate** on May 31, 2027, unless extended or terminated in accordance with the provisions of this Agreement.”



Employment Contracts

Standard Terms

Start Date/End Date

“The term of employment shall **commence** on June 1, 2024 and shall continue until such employment is terminated in accordance with the provisions of this Agreement.”

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Employment Contracts

Standard Terms

Hours of Work



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Employment Contracts

Standard Terms

Hours of Work

“The Employee agrees to ***commit and devote the time and hours necessary*** to perform the duties outlined in this contract.”



Employment Contracts

Standard Terms

Hours of Work

“The Employee will be employed in a full-time permanent position based on a 35-hour work week. The work schedule shall be Monday to Friday 8:00 a.m. to 4:00 p.m. with one (1) hour unpaid meal break and one (1) fifteen (15) minute coffee break daily.”

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Employment Contracts
Standard Terms

Duties



Employment Contracts

Standard Terms

Duties

“The Employee agrees to perform her duties in accordance with the rules and policies established by Council.”



Employment Contracts

Standard Terms

Duties

“The Employee agrees to perform his duties in accordance with the rules and policies set forth in Bylaw No. 2 – 2020 and Bylaw No. 5 – 2021, and in accordance with the Town Administrator job description set forth in Bylaw No. 6 – 2023.”

Always obtain copies of these documents

Employment Contracts

Standard Terms

Duties

“The Employees shall take on the following responsibilities:

(a) ...

(b) ...

(c) ...”

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Employment Contracts
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Salary



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Employment Contracts

Standard Terms

Salary

“The Municipality agrees to pay the Employee an annual salary of \$_____ ***effective*** January 1, 2015.”



Employment Contracts

Standard Terms

Salary

“The Municipality agrees to pay the Employee an annual salary of \$_____ **effective** January 1, 2025, payable in accordance with the customary payroll practices of the Municipality, but in no event less frequently than **monthly**.”

Employment Contracts

Standard Terms

Salary

“The Municipality agrees to pay the Employee an annual salary of \$ _____ *effective* January 1, 2025, payable in accordance with the customary payroll practices of the Municipality, but in no event less frequently than *monthly*. This salary shall be *increased on January 1st* of each year in accordance with the annual increase in the cost of living in Saskatchewan *as calculated by Statistics Canada.*”

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Employment Contracts
Standard Terms

Expenses



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Employment Contracts

Standard Terms

Expenses

“The Municipality will support your continued professional development, including:

- (a) payment for all professional fees associated with maintaining professional designations including attendance at association conferences, meetings and all related costs;
- (b) providing receive reimbursement of \$150 per diem for loss of personal time for attendance at a conferences and conventions; and
- (c) attendance at various meetings, workshops/seminars, conventions and professional development courses through an annual allocation for continuing education in the budget.”

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Employment Contracts
Standard Terms

Vacation



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Employment Contracts

Standard Terms

Vacation

“The Town Administrator shall be entitled to paid vacation of 20 working days per annum to be taken at times approved by Council.”

Employment Contracts

Standard Terms

Vacation

“The Employee shall be entitled to following annual paid vacation:

- ***15 annual vacation days*** after the completion of each of the first three years of employment;
- ***20 annual vacation days*** after the completion of four years of employment and after the completion of each subsequent year.

The Employee shall be entitled to ***carryover a maximum of 15 vacation days*** per year, unless otherwise approved by Council.”

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Employment Contracts
Standard Terms

Benefits



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Employment Contracts

Standard Terms

Benefits

“Reserve the employer’s right to modify, suspend, or discontinue any or all such benefit plans without obligation to replace them with any other benefit or to otherwise compensate affected employees”

Employment Contracts

Standard Terms

Benefits

“The Municipality agrees to pay 100% of the premiums for the following benefit plans and any further benefit plans that may be made available to the municipal employees in the future:

- (a) Dental Insurance Coverage;
- (b) Extended Health Coverage;
- (c) Long-Term and Short-Term Disability;
- (d) Life Insurance; and
- (e) Municipal Employee Pension Plan.”

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Employment Contracts
Standard Terms

Termination – With Just Cause



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Employment Contracts

Standard Terms

Termination – With Just Cause

“The Employee shall at no time conduct himself, either professionally or personally, in such a manner that brings the Municipality into disrepute or ridicule, and the parties agree that breach of this section constitutes just cause for immediate termination.”



Employment Contracts *Standard Terms*

Termination – With Just Cause

“The Council may terminate the Employee’s employment for ***just cause***, without prior notice.”

Termination of Employees With Just Cause

The court will look to factors such as the nature of the misconduct, the surrounding context (i.e. employee's age, employment history, roles and responsibilities, etc.) and whether the misconduct was sufficiently serious.

An effective balance must be struck between the severity of an employee's misconduct and the sanction imposed.

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Employment Contracts
Standard Terms

Termination – Without Just Cause

Employment Contracts

Standard Terms

Termination – Without Just Cause

Preliminary Consideration

- Will the termination constitute discrimination under *The Saskatchewan Human Rights Code, 2018*?



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Termination – Without Just Cause

Discrimination – Human Rights

Employers are required to make every reasonable effort, short of undue hardship, to accommodate an employee who comes under a prohibited ground of discrimination.



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Standard Terms

Termination – Without Just Cause

Discrimination – Human Rights – Prohibited Grounds

Religion, Creed, Marital Status, Family Status, Sex, Sexual Orientation, Disability, Age, Colour, Ancestry, Nationality, Place of Origin, Race or Perceived Race, Receipt of Public Assistance, Gender Identity



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Standard Terms

Termination – Without Just Cause

Human rights tribunals have consistently applied an expansive meaning to read new illnesses and conditions into the definition

Congenital physical malformations, asthma, speech impediments, obesity, acne, being HIV positive, height, an anxio-depressive state, bi-polar disorder, alcoholism, drug dependency, a hysterectomy, panic attacks, dyslexia, stress, tobacco addiction, an injury to the vocal nodules, chronic fatigue syndrome, tendonitis, insomnia, a sensitivity to cigarette smoke, a dental condition, marijuana addiction, a fear of flying, an obsessive compulsive disorder and chronic headaches.

Termination of Employees Substance Abuse

Facts

- Employee was “satisfactory employee” with no performance issues
- Approximately 7 months into his employment, employee began drinking heavily.
- Employee did not advise manager about his alcohol dependency, but he did raise the possibility of a medical absence
- Employee attended work while intoxicated, interrupted a staff meeting and acted belligerently towards the general manager
- Employee was terminated

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Termination of Employees Substance Abuse

Was the employee's complaint established or dismissed?

Termination of Employees Substance Abuse

Decision: Complaint Successful

- The employee was diagnosed with an alcohol addiction.
 - Even without prior medical disclosure before termination, the employer might still need to investigate further.
- It was reasonable for the employer to assume the employee's disability could have influenced their performance.
 - The employer was obligated to determine if the disability affected the employee's work and if accommodations were feasible before proceeding with termination.
- The duty to accommodate to the point of undue hardship was not fulfilled.
 - While the employer was not required to tolerate significant safety risks or ongoing intoxication, it was necessary to explore alternatives, including the employee's request for medical **leave for treatment**.



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Termination of Employees Mental Health

Facts

- The employee repeatedly abused and threatened coworkers and smoked on the premises.
- He was disciplined multiple times for this behavior.
- During the investigation, the employee retaliated against coworkers.
- Following the investigation, he was terminated due to his conduct.
- He claimed his termination was discriminatory, attributing his behavior to mental health conditions of depression and anxiety

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Termination of Employees Mental Health

Was the employee's grievance successful or dismissed?

Termination of Employees Substance Abuse

Decision: Grievance Dismissed

- The employee suffered from depression and anxiety.
- Although these disabilities can affect performance and may require accommodations, they do not excuse all types of behavior.
- His depression and anxiety did not absolve him of responsibility for his abusive actions toward others and smoking, as these behaviors were not directly caused by his disability.
- The employer was not obligated to accommodate these actions.
- There was no direct link between his disability and the behaviors that led to his termination, eliminating any duty to accommodate on the part of the employer.

Termination of Employees

Mental Health

Facts

- The employee required a leave of absence for mental health concerns, including suicidal inclinations, and subsequently underwent hospitalization.
- She initiated discussions with her employer to formulate a strategy for her reintegration into the workplace.
- In response, the employer requested to discuss her condition with her medical provider, leading the employee to provide access to her psychiatrist.
- Rather than facilitating her return, the employer sought the psychiatrist's assistance in convincing her to pursue employment elsewhere.
- The employer declined to explore any gradual reintegration plans with the employee and ultimately terminated her employment, which resulted in a human rights complaint



Termination of Employees Mental Health

Was the employee's complaint established or dismissed?

Termination of Employees

Mental Health

Decision: Complaint Successful

- The termination was grounded in the employer's assumption that the work environment would be too stressful for the employee.
- The employer concluded that accommodation was not feasible.
- The employer argued that accommodating a gradual return to work would create undue hardship, necessitating reliance on temporary dental assistants to cover shifts.
- The decision to terminate was made without exploring potential accommodations, failing to fulfill the procedural duty of care.
- The employer did not successfully show that providing accommodations would lead to undue hardship.

Employment Contracts

Termination Provisions In Employment Agreements

- The most often litigated aspect of the employment relationship involves termination of an employee and his or her rights to notice, or pay in lieu of notice of that termination.
- The common law presumption of termination upon reasonable notice can be rebutted where a contract of employment contains a notice provision, so long as that notice provision provided at least as much protection as the employment standards legislation.
- The intention of the parties to displace an employee's common law notice entitlement must be clearly and unambiguously expressed in the contractual language used by the parties.





Employment Contracts

Standard Terms

Termination – Without Just Cause

“The Council may terminate this Agreement at any time for any reason by providing statutory notice in accordance with the provisions of *The Saskatchewan Employment Act*. The parties agree that such statutory notice shall constitute the Employee’s full termination entitlements.”

Termination of Employees Without Just Cause

The Saskatchewan Employment Act

Employee's Period of Employment

more than 13 consecutive weeks but one year or less

more than one year but three years or less

more than three years but five years or less

more than five years but 10 years or less

more than 10 years

Minimum Period

one week

two weeks

four weeks

six weeks

eight weeks

Termination of Employees Without Just Cause

Principle Factors Relevant to Determining Notice

1. Age
2. Length and Continuity of Service
3. Character of the Employment
4. Availability of Similar Employment
5. Training and Qualifications
6. Inducement

Termination of Employees Without Just Cause

Example #1

Termination of Junior Employee.

Age: 29

Length of Service: 5.2 years

Position: Labourer

Statutory Entitlement: 6 weeks (1.5 months)

Termination of Employees Without Just Cause

Example #1

Termination of Junior Employee.

Age: 29

Length of Service: 5.2 years

Position: Labourer

Statutory Entitlement: 6 weeks (1.5 months)

Award : 26 weeks (6 months)

Termination of Employees Without Just Cause

Example #2

Termination of Senior Employee

Age: 50

Length of Service: 29.5 years

Position: Manager

Statutory Entitlement: 8 weeks

Termination of Employees Without Just Cause

Example #2

Termination of Senior Employee

Age: 50

Length of Service: 29.5 years

Position: Manager

Statutory Entitlement: 8 weeks

Award : 18 months



Employment Contracts

Standard Terms

Termination – Without Just Cause

“The Municipality may terminate your employment without cause at any time by providing you with a payment in an amount equivalent to six (6) months salary and benefits, less required deductions, plus an additional one (1) month’s salary and benefits, less required deductions, for each completed year of service at the time of termination up to a maximum payment of 24 months’ salary and benefits. It is acknowledged and agreed that the provision of such a payment is reasonable and shall completely satisfy the Municipality’s obligations to you regarding termination”

Questions?