



# Ending Employment

Covers a range of different situations that may occur at the end of employment

- How people leave employment
- Final pay
- Handling the leaving process
- A range of templates including:
  - Employee exit check list
  - Resignation letter
  - Confirmation of resignation letter
  - Exit plan
  - Certificate of employment
  - Final pay confirmation
  - Property inspection

# 1.1 Ending Employment

## Information about terminating an employment relationship

### Why this is important

There are many ways that employment relationships can end. Being aware of this and knowing how to deal effectively with the most common situations is important. Action in the heat of the moment can lead to a claim for unfair dismissal by the former employee, which can be costly and damage your reputation as an employer.

**Ending employment is a very serious employment relations issue. Unless someone has resigned or a fixed-term agreement has come to an end, seeking advice is strongly recommended.**

#### This fact sheet will cover:

- How people leave employment
- Final pay
- Handling the leaving process

### How people leave employment

There are many ways that people can leave employment. The most common situations are:

- Resignation
- End of a fixed-term agreement
- Abandonment
- Long-term illness
- Dismissal
- Redundancy.

### Resignation

The most common way people leave employment is as a result of resignation. Resignation occurs when an employee gives advance notice of their intention to leave employment. Employees may resign at any time, provided they give reasonable notice. The acceptable notice period is usually included in the employment agreement and depends on circumstances. The employment relationship continues to the end of the notice period.

#### Caution: Heat of the moment resignations

Sometimes people resign in the heat of the moment following an argument. Such a resignation should never be accepted immediately as it may lead to a personal grievance being raised by the employee, due to them feeling as if they've been forced to resign or constructively dismissed. In this situation it is suggested you say to the employee:

"Let's both/all have some time out away from here/each other. If you still want to resign tomorrow, put your resignation in writing and we'll discuss it then."

The employer should be justified in taking steps to discipline staff and must consider all the circumstances of the case.

Retirement is also initiated through resignation. In general, there is no set age to retire from work. Employers cannot require employees to retire just because of their age, except where an employment agreement from prior to 1 April 1992 is still in force and contains an explicit retirement age.

You should ask for the employee's resignation to be given in writing to which you reply verbally and then also in writing.

### **Notice periods**

If the employee gives the required notice, the employer must pay the employee to the end of the notice period. If an employee is asked to stop work before the full notice period has been worked, they are still entitled to be paid for the full period. The employer cannot force the employee to stop work and take holidays owed to them over the notice period. Where the employee leaves without providing notice the employer is only required to pay the employee up to their last actual day of work. The employer must not deduct pay in lieu of notice unless this is agreed in writing.

## **End of a fixed-term agreement**

As long as there is a genuine reason for a fixed-term agreement, the employment agreement terminates when the terminating event or end date is reached. As long as the relevant legal requirements have been met no further action is needed by either person.

Good practice would dictate the employee is reminded of the impending end of the agreement two to four weeks in advance and the process is handled with respect.

## **Abandonment**

The first thing to do if you suspect an employee has abandoned their employment is to try to contact them. Several phone calls/texts, visits to their residence and a call to next of kin should be made to check on the employee's wellbeing before abandonment can be confirmed. After a reasonable amount of time has passed without contact (three days or more), a letter should be sent to their last known address, stating that the employee must make contact within a certain time period or face dismissal. If no contact is made after that period, a further letter stating that the employee has been dismissed should be sent. If the employee should return to work at a later date, any corrective action should be handled through a proper disciplinary process.

## **Frustration of contract**

Frustration of the contract occurs when the employee becomes unable to perform the required duties. Examples where frustration may occur include:

- The employee is put in prison.
- They lose their driver's licence (or class of licence) which is a necessary part of their employment.
- Permanent sickness or injury which leaves the employee unable to fulfil their duties.

A letter needs to be sent to the employee, stating the reason that their employment with you has been terminated.

### **Long-term illness**

Ending an employment relationship in the case of long-term illness or injury is extremely challenging and stressful for everyone involved. Options for bringing the employee back into the workplace, such as a change in practice or use of some equipment, must be seriously considered before a decision to terminate employment is made. Employers should also obtain a professional medical opinion before terminating employment.

Where accommodation is provided, the employee is entitled to live there (and pay rent) while they are ill. Once the decision to terminate employment has been made the person may be asked to vacate the accommodation under the terms set out in their employment and/or tenancy agreement. Obviously this must be handled sensitively.

## Dismissal

In order to be lawful, the dismissal of an employee must be substantively justified and conducted in a procedurally fair manner. Dismissal may occur in the following circumstances:

- Due to poor performance
- Due to misconduct (does not include incidents away from work or in their own time).

Dismissal often results from mismatched expectations between employer and employee. It is important that the recruitment process is carefully examined to make sure expectations are clear to both parties.

Dismissal is very serious and needs to be handled carefully, both legally and with respect for the individual. There must be good reason for the dismissal and the dismissal must be fair. What is fair will depend on the circumstances of the dismissal and is therefore subject to interpretation. Legal advice should be sought to ensure the process is fair and the risk of the employee lodging a personal grievance is minimised.

At all times the employer must maintain an open mind and remain as objective as possible, applying the basic principles of procedural fairness:

Full Investigation	Don't rush the investigation and ensure the facts are correct.
Promptness	The employer must take action as soon as possible once aware of the issue.
Consistency	All employees must be treated equally and fairly.
Non-punitive	Disciplinary action must not be used to punish or gain revenge on an employee; the aim is to correct employee behaviour.
Free from entrapment	You must not knowingly allow an employee to commence a course of action where the result would be dismissal without first warning the employee of this possibility.
Free from bias	Asks what and when.
Pre-determination	Disciplinary action may only be taken after full investigation and the employee's explanation has been heard and given full consideration.
Employment agreements must be followed	Any relevant provisions in the agreement must be followed, including notice period.

### Dismissal cannot be instant

Even in cases where there has been serious misconduct, or where the employee is a danger to themselves or others, they should be immediately suspended from work pending an investigation rather than dismissed on the spot. This gives the employer time to investigate the issues properly and both parties the chance to seek professional advice.

### Keep good records

Good records are essential, as the employee can legally request a written statement of the reasons for the dismissal up to 60 days after the dismissal, or after they find out about the dismissal, whichever is the later. The employer must provide this within 14 days.

### Constructive dismissal

This occurs where an employer:

- Directly or indirectly puts pressure on an employee to resign
- Makes the situation at work intolerable for the employee, forcing them to resign
- There has been a breach of duty by the employer such that the employee feels they can no longer stay in the job.

Where constructive dismissal occurs the employee will usually have a case for a personal grievance.

## Redundancy

Redundancy occurs in the following circumstances:

- When a position is genuinely no longer needed in the workplace due to reasons such as restructuring or the business closing down
- Where there is a genuine economic or commercial reason to discontinue employment.

Redundancy must be for genuine reasons and not used as a tool to force an employee out of the business. For example, a restructure and a change in job title do not automatically mean a redundancy is justified if the duties performed are substantially the same. Remember at all times that redundancy is about positions not people, otherwise you greatly increase the risk of a personal grievance.

Redundancy is a form of dismissal, so needs to follow a fair and open process including:

- All provisions of the employment agreement must be met
- You must consult with affected employees before making a decision to terminate their position. Consultation must be genuine, with a real desire to listen on the part of the employer
- Information relevant to the proposed redundancy must be available for employees
- You must give employees time to seek advice and to respond to the information you have given them
- You must give staff the opportunity to discuss alternatives such as re-deployment to other roles within the business
- Consider providing support of a non-financial nature, e.g. offering counselling or giving time off to attend interviews
- If redundancy is unavoidable, notification of termination of employment should be made in writing to each affected employee. The letter should contain information about the notice period to be worked (four weeks seems to be acceptable) and any entitlements they can expect.

Compensation for redundancy is not compulsory unless employer and employee have agreed to compensation. This agreement may take place prior to employment commencing or following the decision to make the employee redundant. Treat people with respect through the process and consider their needs. For many people, the prospect of redundancy is a huge shock and it will take time to come to terms with.

### Employee protection

The Employment Relations Act 2000 requires that employers make every reasonable attempt to protect the employment of their workers when the business changes hands. This must be documented in the employment agreement and employers must be able to show that the process was followed when the business is sold. Note that the new business owner is not obliged to accept any of the existing staff.

## Final pay

At the end of any period of employment, regardless of how it ends, the employee is legally entitled to all outstanding pay, including any holiday pay and any other benefits specified in their agreement, such as production bonuses or meat. The Wages Protection Act 1983 requires employers to pay the entire amount of any wages, without deductions, unless they are required to make deductions by law or the employee has authorised deductions in writing.

The employee's final pay and any applicable bond refunds arising from accommodation arrangements should be paid on the last day of employment, or shortly afterwards (within ten working days). You should provide the employee with a written summary of how the final pay is calculated, including any authorised deductions and the date it will be paid.

## Handling the leaving process

The way you handle the leaving process can be the difference between a smooth and a stressful process. An employee leaving also provides an opportunity for some learning to take place regarding the job and your strengths and weaknesses as an employer. The following process provides some ideas as to how you can make the experience as smooth as possible for both parties.

Confirm dates	Make sure there is no confusion regarding notice periods, final day of work and date for vacating accommodation. Ask the employee to provide notice of their resignation in writing (template provided 7.1.2).
Check employment agreement	It's important to check the employee's agreement and make sure of your obligations.
Plan the leaving process	Discuss what will need to happen over the time leading up to their departure. A checklist is provided suggesting the sort of tasks / events you will need to plan.
Review the job description	The person leaving will have some valuable insights into the job. This provides a learning opportunity to help you shape the recruitment and selection process and ensure a better match between employee and job.
Conduct an exit interview	Once again a person leaving can also provide the opportunity for learning. An exit interview can help you to understand both your strengths and weaknesses as an employer. The interview should be conducted with a third party so the employee feels more able to provide honest feedback.
File employee records	The Minimum Wage Act 1983 and Employment Relations Act 2000 require employers to keep a record of the time worked and wages received for each employee for 6 years (refer to the Legal Responsibilities Fact Sheet 1.1).

## Useful references

**New Zealand Employment Law Guide, Rudman, R., (2007), CCH New Zealand Ltd, pp408, ISBN: 978-0-86475-698-5.**

**Federated Farmers of New Zealand** (members only) 0800 327 646

Federated Farmers provides a range of employment related services to members including fact sheets, legal and practical employment advice and agreements.

**Employment New Zealand** 0800 20 90 20 (website – [www.employment.govt.nz](http://www.employment.govt.nz)).

Employment NZ is part of the Ministry of Business, Innovation and Employment and offers a range of different information to ensure employees and employers are full aware of their rights and entitlements.

## Useful websites

Employers and Manufacturers Association – [www.ema.co.nz](http://www.ema.co.nz)

Federated Farmers of New Zealand – [www.fedfarm.org.nz](http://www.fedfarm.org.nz)

Employment New Zealand- <https://www.employment.govt.nz/>

Department of Building and Housing (tenancy matters) – [www.dbh.govt.nz](http://www.dbh.govt.nz)

Department of Immigration – [www.immigration.govt.nz](http://www.immigration.govt.nz).

## 1.1.1 Template – Employee Exit Check List

### Tick

	Official notice of resignation received
	Confirmation letter of resignation provided to employee
	Exit plan completed
	Team notified
	Review the existing job description with the employee departing to make sure it is still appropriate for the position
	Initial accommodation inspection complete <ul style="list-style-type: none"> <li>Inspect accommodation and grounds and determine if any repairs or maintenance is required by employee</li> <li>Plan for any additional R&amp;M to be carried out before next employee moves in.</li> </ul>
	Any purchasing delegations cancelled with suppliers
	Final timesheet completed
	Final pay calculated and payslip provided to employee
	Any existing wage / salary auto payments stopped
	Final pay lodged in employee's bank account
	Business property returned
	Exit interview complete
	Final accommodation inspection complete (where applicable)
	Bond refund for accommodation complete (where applicable)
	Certificate of employment issued to employee
	Immigration notified if appropriate
	Forwarding address / phone number recorded
	Employee file closed off: (Employee records including wages / salary, timesheets and holiday records must be archived for 6 years.)  Date:  Signed:



## 1.1.2 Template – Resignation Letter

(For employee to complete)

Dear [Insert employers name]

This letter is to confirm my resignation from employment with your business effective from

\_\_\_\_\_.

As detailed in my employment agreement my notice period is \_\_\_\_ weeks and therefore my last day will be \_\_\_\_\_.

I will be moving out of my accommodation on \_\_\_\_\_.

Sincerely,

Employee's signature: \_\_\_\_\_

Employee's name: \_\_\_\_\_

Date: \_\_\_\_\_

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## 1.1.3 Template – Confirmation of Resignation Letter

Dear [Insert employee's name]

This letter is to confirm your resignation and the end of your employment.

It is understood that your last day of work will be [Insert date] and you will be vacating the accommodation provided with your job on [Insert date].

I will meet with you over the next few days to plan the process for your leaving and discuss what will happen in your remaining time with us.

Thanks for the time you have worked with us in our business. You will be missed.

Sincerely,

[Insert your name]

[Insert your position in the business]

[Insert the business name]

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## 1.1.4 Template – Exit Plan

### Exit plan

The following table outlines what needs to happen over the next few days in preparation for your employee leaving:

Date	Event/Task
Today's date: _/_/____	<ul style="list-style-type: none"> <li>• Notify the team</li> </ul>
_/_/____	<ul style="list-style-type: none"> <li>• Preliminary inspection of accommodation</li> <li>• Detail any R&amp;M required to be carried out by employee</li> </ul>
_/_/____	<ul style="list-style-type: none"> <li>• Final timesheet required</li> </ul>
_/_/____	<ul style="list-style-type: none"> <li>• Business property returned (e.g. RT, cellphone or bike)</li> </ul>
Final day of work: _/_/____	<ul style="list-style-type: none"> <li>• Exit interview</li> </ul>
_/_/____	<ul style="list-style-type: none"> <li>• Farewell with team</li> </ul>
_/_/____	<ul style="list-style-type: none"> <li>• Vacate and clean accommodation</li> </ul>
_/_/____	<ul style="list-style-type: none"> <li>• Final accommodation inspection</li> <li>• Accommodation bond reviewed</li> </ul>
_/_/____	<ul style="list-style-type: none"> <li>• Final pay lodged in employee's bank account</li> </ul>

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## 1.1.5 Example – Certificate of Employment

A. Farmer  
Sheep and Beef Lane  
RD  
Somewhere

4 December 2008

RE: Joe Bloggs

To whom it may concern.

This letter is to verify that Joe Bloggs has been employed by Small Block farming Ltd from 3 March 2006 to 30 November 2008 in the position of Farm Manager.

During this period the main duties of Joe were:

- Supervise 3 staff members
- Manage animal health
- Manage mating
- Carry out repairs and maintenance as needed
- Prepare and manage the farm budget.

For a verbal reference please call me on 027 123 4567.

Sincerely,

Andy Farmer  
Owner  
Small Block Farming Ltd

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## 1.1.6 Template – Certificate of Employment

[Insert your address]

[Insert date]

RE: [Insert employees name]

To whom it may concern

This letter is to verify that [Insert employees name] has been employed by [me / us / company name] from [Insert date] to [Insert date] in the position of [Insert position].

During this period the main duties of [Insert employees name] were:

For a verbal reference please call me on [Insert phone number].

Sincerely,

[Insert your name]

[Insert your position in the company]

[Insert the company name]

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## 1.1.7 Template – Exit Interview

Employee name: .....

Final day of work: .....

Duration of employment: .....

Position: .....

1.	What job will you be moving to?
2.	Why did you start looking for a new job?
3.	How do you think your new role compares to your role here? A step backward / About the same / A promotion
4.	Did your job with us turn out as you expected?
5.	What did you like most about the job and why?
6.	What did you like least about the job and why?
7.	Did you feel you were able to approach your manager? Why?

8.	Did you feel that you were able to contribute to the business? Explain?
9.	Did you feel you were able to develop skills and knowledge useful to your career while working here? In what areas?
10.	Would you have liked more training either on or off farm? If so what?
11.	Were you provided with the tools and machinery required to do the job well?
12.	Was your workload fair? Explain?
13.	How has pay level and time off influenced your decision to leave?
14.	What could have been done to retain you in the business?
15.	Any other comments you would like to make?

<b>16.</b>	<p>Are you happy to act as a referee and discuss working for our business with people who are considering coming to work with us?</p> <p>Yes / No</p> <p>If Yes, what phone number will be most suitable to contact you?</p>
<b>17.</b>	<p>Are you happy for us to call you in the future if a job that you may be suited for comes up in our business?</p> <p>Yes / No</p> <p>If Yes, what phone number will be most suitable to contact you?</p>

Reasons for employee leaving in the interviewer's opinion:

Suggestions for future action:

Interview carried out by:

Name: .....

Signature: .....

Date: .....



## 1.1.8 Template – Final Pay Confirmation

[Insert your address]

[Insert date]

RE: Confirmation of Final Pay

Dear [Insert employees name]

You chose to terminate your employment with us on the [Insert last day of work] after giving [Insert notice given] weeks notice.

We have calculated your final wages. These are:

	\$
_____ days ordinary pay from ___/___/_____ to ___/___/_____	
_____ day holiday pay	
Bonuses (list)	
Bond refund on accommodation	
Less deductions (list)	
<b>TOTAL</b>	

This total will be paid by direct credit to your bank account as provided on [Insert date].

Should you have any queries please notify me prior to your departure and I will explain how these calculations have been made.

We wish you all the best with your future and thank you for your input into our farm business.

Sincerely,

[Insert your name]

[Insert your position in the business]

[Insert the business name]

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## 1.1.9 Template – Property Inspection

This report should be used to record the condition of the accommodation at the end of the period of tenancy. The landlord and the tenant should fill out this form together and agree on any action required.

**Property:**

**Landlord(s):**

**Tenant(s):**

**Date of inspection:**

**STATE code explanation:** S = satisfactory, N = needs attention – detailed action required

Entrance/Hall	State	Action required
Walls/ceiling/woodwork		
Floor/coverings		
Curtains/blinds		
Light fittings/power points		
Windows/doors/screens		
Comments/other		
Lounge	State	Action required
Walls/ceiling/woodwork		
Floor/coverings		
Curtains/blinds		
Light fittings/power points		
Windows/doors/screens		
Comments/other		
Dining Room	State	Action required
Walls/ceiling/woodwork		
Floor/coverings		
Curtains/blinds		
Light fittings/power points		
Windows/doors/screens		
Comments/other		
Kitchen	State	Action required
Walls/ceiling/woodwork		
Floor/coverings		

Kitchen cont...	State	Action required
Curtains/blinds		
Light fittings/power points		
Windows/doors/screens		
Cupboards/drawers		
Bench tops/tiling		
Sink/disposal unit		
Taps		
Stove		
Exhaust fan		
Comments/other		
Bedroom 1	State	Action required
Walls/ceiling/woodwork		
Floor/coverings		
Curtains/blinds		
Light fittings/power points		
Windows/doors/screens		
Comments/other		
Bedroom 2	State	Action required
Walls/ceiling/woodwork		
Floor/coverings		
Curtains/blinds		
Light fittings/power points		
Windows/doors/screens		
Comments/other		
Bedroom 3	State	Action required
Walls/ceiling/woodwork		
Floor/coverings		
Curtains/blinds		
Light fittings/power points		
Windows/doors/screens		
Comments/other		

Bathroom 1	State	Action required
Walls/ceiling/woodwork		
Floor/coverings		
Curtains/blinds		
Light fittings/power points		
Windows/doors/screens		
Bath		
Shower		
Shower screen		
Wash basin		
Tiling		
Mirror/cabinet		
Towel rail		
Toilet		
Comments/other		
Laundry	State	Action required
Walls/ceiling/woodwork		
Floor/coverings		
Curtains/blinds		
Light fittings/power points		
Windows/doors/screens		
Comments/other		
Exterior	State	Action required
Exterior walls/window frames		
Lawns/gardens		
Roof/gutters		
Garage/carport/driveway		
Clothes line		
Fences/gates		
Mailbox		
Balcony/veranda/porch		

Exterior cont.....	State	Action required
Outside lights		
Doorbell/security system		
Comments/other		
Other comments		

## Impact on tenant as a result of failing to take required action

Failure to take the required action as detailed above will result in deductions to the tenant's bond to make good the repairs / cleaning required.

The cost of remedial action will be determined by obtaining two quotes to complete the work and selecting the lowest amount.

The amount to be deducted is estimated at: \$ \_\_\_\_\_

(subject to receiving quotes)

NOTE: Given there is a need for action to be taken quickly, before the next staff member commences work, the availability of contractors may be limited and cost may be greater than expected.

## Acknowledgement

This report is a fair reflection of the of the state of the property and the action required to remedy the situation. (Do not sign unless you agree with all the details in the report.)

Landlord

Tenant

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_