

LAYOFFS

Q: We need to reduce our staffing levels. What is a layoff and can we lay our employees off until we need them?

A: A [temporary layoff](#) is when an employee earns less than 50% of their regular weekly wages (averaged over the previous eight weeks that they worked), **with the plan that the employee will return to a regular work schedule.**

- Layoffs are [not automatic](#). BC's employment legislation requires that employees must agree to be laid off or layoffs must be part of the employment contract. If an employee doesn't agree to the layoff, it may be considered a termination of employment.
- If the employee won't be returning to work, the layoff is a [termination of employment](#).
- If an employee is laid off, they're still considered to be employed. Any benefits and entitlements (including [vacation](#) and [leaves of absence](#)) are protected.

More information: [Temporary layoffs – Province of British Columbia \(gov.bc.ca\)](#)

Q: How long can an employee be on a temporary layoff before the employer needs to bring them back, to avoid the layoff becoming a termination?

A: An employee cannot be laid off for more than 13 weeks in any given 20-week period (about three months in a period of five months).

- Every week that an employee earns less than half of their regular wages counts as a [week of layoff](#).
- If an employee is laid off for more than the maximum number of weeks, the Employment Standards Branch may decide that their employment has been ended and employers may need to pay [compensation for length of service](#).

In this situation you may want to apply to the Employment Standards Branch for a [variance](#) to extend the temporary layoff.

Q: Are we required to provide employees with compensation if we can't bring them back from a layoff and end up terminating them?

A: Yes. If you are unable to recall an employee back to work, the usual guidelines for termination will apply, and appropriate compensation needs to be paid.

More Information: [Employee departure](#)

Q: Does the employee vacation need to be paid out before they can go on EI? Some of our staff don't want their vacation to be paid out as they want to take it at a later stage.

A: If the layoff is considered temporary as defined within the Employment Standards Act (ESA) then paying vacation pay is not a requirement. If the layoff is not temporary, then vacation pay would need to be paid out.

We are inclined to be sympathetic and say if employees don't want to be paid out, don't force it on them. We have high hope the layoff will last a short time. Employees will need their vacations. They aren't being terminated, just sent home for the duration. If it drags on, employees have a little stash of vacation money they can ask for at a later time.

More Information: [Quitting, Getting Fired or Laid Off – Province of British Columbia \(gov.bc.ca\)](#)