

HRM 3420 – Employment Law
Things You Need to Know Now, Which We Learn More About Later

1. Ways to Bring a Legal Action

You can't just sue anyone who irritates you. You need a legal "cause of action". That means there needs to be some recognized legal basis for your complaint. We will meet three types of "causes of action" in this course:

1. **Breach of contract:** When a party to a contract alleges the other party violated a term of the contract. This type of lawsuit would normally go to a court/judge to decide.
2. **Breach of a statute:** Statutes, such as the Human Rights Code and Employment Standards Act, create legal rights and obligations. If you believe a right or entitlement you have under a statute has been infringed by someone, then you can file a complaint under that statute. These complaints usually go to an **Administrative Tribunal** first, and not to a court.
3. **A Tort:** A tort is a legally recognized "wrong" done by one person (or business) to another person (or business). The common law courts have over the years invented these wrongs when they believe the way one person treated another is just not right. They create rules that define the 'tort', and you can sue someone in court who violates those rules.

2. Basic Rules of Common Law Termination of Employment Contract

The general rule is this: An employer may terminate a non-union employee at any time, for any reason or no reason at all, provided they provide the employee with "reasonable notice". The court decides how much notice is "reasonable" by applying some criteria they made up, including most importantly, length of service and type of job (Chapter 13).

There are some exceptions to this general rule.

Exception One: The employment contract has an expressed (written) term spelling out how much notice is required (and that amount of notice is not less than required by an employment standards statute).

Exception Two: The employee has committed a very serious breach of the contract. In that case, the employer can dismiss the employee *for cause*, without giving any notice (Chapter 14)