

TRADIE LAW FACT SHEET #14

DEALING WITH EMPLOYEES

TRADIE LAW
POWERED BY Ford Sumner
LAWYERS

Suspending an employee

OVERVIEW

A suspension from work is where an employee remains employed but is directed to temporarily stay away from the workplace.

It is, essentially, a tool for removing difficult or unsafe employees from the workplace so a proper process can be carried out.

It should not be used as a disciplinary tool - the length of the suspension should reflect the time needed to conduct the investigation or the time needed to reduce the health and safety risk.

Therefore, you need to tread carefully when sending an employee away from the workplace.

Under what circumstances can I suspend an employee?

An employer can only suspend an employee for **good reason**. Generally, this will be where an employee:

- is under disciplinary investigation for their behaviour and having them at work may compromise the investigation or cause further issues; or
- poses a risk to health and safety.

If the employment agreement or a company policy details situations in which a suspension can occur, you must comply with those terms. Only in very limited circumstances can you lawfully suspend an employee without a contractual or statutory right to do so.

How do I suspend an employee?

You must follow a **procedurally fair process** when deciding to suspend the employee. A lawful decision to suspend cannot be predetermined and must follow consultation with the employee. If the employment agreement or a policy specifies a process to follow in this situation, it should be followed to avoid a breach.

There are a few exceptions however. An employer may not have to give the employee an opportunity to comment on the concerns where, for example, there could be an immediate danger to the employee or to others, or the employee is unable to perform safety-sensitive work.

Any suspension should be on full pay. Suspension without pay can only be considered if it is specifically provided for in the employment agreement.

Generally, if the employer does not have good reason for the suspension or does not follow a fair process, the employee may have a personal grievance against the employer.

If you are dealing with employment issues and want to discuss your options, get in touch so we can help.

Contact:

E helpdesk@tradielaw.nz
W www.tradielaw.co.nz/contact/

One of our team will be in touch to assist you within 24 hours.