

## Bits & Briefs

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In our "Bits & Briefs" Special Series dedicated to **Israeli Labor and Employment Law**, we provide periodic bite-sized updates introducing key provisions of Israeli labor law and their practical implications, particularly from the perspective of businesses looking to operate in, or expand to, Israel. In this update we will cover some of the basic rights granted to employees in Israel regarding the hearing process requirement in relation to termination of employment.

### Termination of Employment - Hearing Process

Israeli employment laws set certain limitations on an employer's right to terminate the employment of its employees, including establishing a hearing process. According to Israeli case law, termination of employment relations requires a hearing process, for which specific guidelines have been developed over the years by Israeli labor courts.

The Labor Courts have repeatedly asserted that the employer's obligation to hear the employee before making a final decision regarding the employee's future employment results from the employee's basic right to be heard, and derives from the rules of natural justice and bona fide obligations.

The hearing process consists of several stages:

**Bit #1:** The employer must first send the employee a written invitation to the hearing, specifying in detail the reason that the employer is considering termination of the employee's employment. The invitation must be delivered to the employee reasonably in advance of the hearing (usually two or three days is considered sufficient).

**Bit #2:** The employee should also be made aware of the employee's right to invite any person to represent or accompany him or her at the hearing.

**Bit #3:** The hearing must be held before the employee's direct supervisor, or before a person authorized by the employer to reach a decision regarding termination of the employee's employment (if the direct supervisor is not authorized to reach such a decision).

During the course of the hearing the employee must again be made aware of the employer's considerations regarding termination of the employee's employment, and the employee must be provided a sufficient opportunity to speak and to respond to any allegations against the employee. The hearing must be held in a language in which the employee is fluent.

**Bit #4:** Minutes of the hearing must be kept and must detail the main points raised in the hearing, although they need not be a full record of the proceedings.

**Bit #5:** Following the hearing, the employer must consider the points raised and reach a final decision regarding termination of employment. Such decision, specifying the reasons behind it, must be presented to the employee not earlier than a day after the hearing, and in no event should such decision be rendered during or immediately following the hearing.

### Practical Implications:

- Termination of employment without conducting a hearing at all, or without conducting a hearing according to the rules set forth above, constitutes wrongful termination, rendering the employee entitled to compensation generally set by the Labor Courts as ranging between one to twelve monthly salaries, proportionally to the severity of the situation. For instance, a senior employee will be treated differently from an employee holding a junior position.
- The Labor Courts also tend to take into account the degree of disregard for the hearing process. In certain exceptional and unusual cases where the Labor Court determines that compensation does not appropriately account for the severity of damage to the employee, it may order reinstatement of the employee to a previous position.

**We are happy to assist you in providing legal advice in relation to each of these issues, their ramifications for the workplace and the practical steps that may be taken as a result.**

Sincerely,

Fischer Behar Chen Well Orion & Co.

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