***INSTRUCTION PAGE i***

****

**Following is a template letter** that can be used in the situation where your employer has terminated you without pay. This template letter can be applied to the situation where you are mandated to be vaccinated by government order, or your employer has unilaterally requested you be vaxxed.

If you have been forwarded this letter by a friend, family member or colleague then please go to <https://voicesforfreedom.co.nz/resources> to see the outline of the employment process, to get access to the other letter/s, and to get access to the employment webinars hosted by Voices For Freedom.

|  |
| --- |
| Disclaimer: It is a strict condition of reading and/or using this letter in any way you irrevocably agree that you are bound by the terms and conditions of this disclaimer. If you do not agree with the terms and conditions of this disclaimer, you are prohibited for reading and/or using this letter. Notwithstanding anything in this letter, the information set out in this letter is for general information only, and should not be construed as legal advice and/or health advice. No client-solicitor relationship is created whatsoever. Before taking any action based on this letter, you should consider your personal situation and seek professional legal advice. You acknowledge and agree that you were advised to take legal advice prior to using any information in this letter. If you use this letter and/or any information in the letter you acknowledge and agree that you have relied on your own judgement and initiative and not in reliance of anything else. The reader and/or user of this letter agrees to protect, indemnify, defend, and save harmless the author absolutely from and against any and all damages, claims, losses, demands, liabilities (including vicarious liability), injuries, suits, actions, judgements, costs, and expenses of any kind whatsoever (including reasonable legal fees) arising out of or in any way connected with this letter and the information contained within. Any person and/or persons that shares this letter without this disclaimer accepts full liability for any damage whatsoever caused.If you are sharing this document with others, you acknowledge and agree that you are prohibited from removing this disclaimer. The disclaimer may only be removed once the letter is ready to be sent by the person sending it. You are also prohibited from amending the letter other than the sections identified for you to add to and you acknowledge and agree to this. If, however, you would like to use parts of this letter in a letter that you draft yourself then you are permitted to do so. . |

***INSTRUCTION PAGE ii***

****

**HOW TO USE THIS LETTER?**

1. Read the letter carefully so that you understand what you are sending – this letter is **your letter**.
2. The points you need to complete or closely consider for your situation are highlighted yellow. Keep this information factual and do not hesitate to get it checked by a friend, colleague or family member.
3. This letter is only to be used if your employer has terminated you and refuse to pay your termination notice.
4. Do not forget to include your email in the letter so that your employer knows where best to respond to you in writing.
5. Sign off the letter.
6. Print or email the letter – make sure you keep a copy. DO NOT include these first two pages of instructions.

Your employer will likely respond to this letter and if they do, then you will need to consider their response and may need to obtain advice specific to your situation.

**[Your Name**

**[Email address**

**[Any other contact details**

**[Employer's Name**

**Address**

**Address]**

[Date]

FOR: [Manager | Executive Board]

 **[insert your name and employers’ name] – Personal grievance, breach of agreement and arrears of wages**

1. On [insert date] I received written advice from you that my employment had been terminated. [insert employer name] further advised that my notice period would be unpaid. The purpose of this letter is to raise a claim for unpaid wages as well as a personal grievance for an unjustified disadvantage arising from the failure to pay wages.
2. I do not accept [insert employer name] was legally entitled not to pay me during my period of notice and as a result I have suffered because of this unjustified action.
3. I am also suffering severe financial hardship as a result of [insert employer name]’s decision to do this. This is devastating to me given my years of hard work and loyal service. [if many years, insert number of years]
4. The employer has taken the position that I am unable to perform any duties for the company because of the [Vaccinations Order or Risk Assessment carried out by the company], and therefore I need to be on unpaid leave during the notice period.
5. I have checked my employment agreement and there is no provision in there that allows the employer to place me on unpaid leave or not pay out my notice. I remain ready, willing and able to perform my duties.
6. I also do not consider I have failed to meet the requirements of my employment agreement. At the time of commencing my employment and throughout there has never been a requirement that I be vaccinated. It is clear there has been a fundamental and significant change to my role, as the role now requires a vaccinated person to undertake the position. That was never part of his Job Description, nor was it ever a prerequisite for the role. Regardless of whether this change was implemented by [insert employer’s name] or by the Government, the fact is the role has significantly changed. This change cannot create a failure or default on my behalf.
7. My employment agreement requires [insert employer’s name] to pay me [check employment agreement and insert] weeks’ notice in the event that [insert employer’s name] terminates my employment [see employment agreement insert page number]. There is no right to make deductions in an event where termination arises following the implementation of a Vaccination Order.
8. An employment agreement cannot be unilaterally varied. Section 2 of the Wages Protection Act 1983 (WP Act) protects my salary, and section 4 provides that the entire amount of his salary must be paid without deduction. Section 5 of the WP Act provides that deductions from wages may only be made for a lawful purpose and with written consent.
9. As consent has not been given, and as there is no provision in the employment agreement to make this deduction, a failure to pay me my full salary is an unlawful deduction under the WP Act and an offence under the Act.
10. I also consider I have suffered an unjustified disadvantage by the employer’s failure to pay this notice.
11. It is enough that I am facing loss of my employment through no fault of my own. The loss of a month’s notice [edit if longer notice period provided in employment agreement] is significant in these circumstances and is causing me serious distress, financial hardship and has been discriminatory. It has caused stress in my personal life and is affecting my health.
12. I have always believed my employer respected other people’s beliefs and that it would not tolerate discrimination on any grounds. Despite this, I feel I am being discriminated against and treated differently from other employees who are dismissed for cause (such as redundancy) due to my decision not to be vaccinated.
13. I also note the Covid-19 Response (Vaccinations) Legislation Act 2021 that came into force on Friday, 26 November 2021. The legislation requires payment of notice where employment has been terminated in circumstances where the employee is unvaccinated. Irrespective of whether this Act applies to me or not, it is clear the Government is clear that as a matter of fairness an employer should pay an employee in these circumstances their contractual notice.
14. Given these circumstances, I request that the employer reconsider its position and make full payment of my wages due under my notice period [and include stand down period if applicable].

**Remedies**

1. If the employer will not agree to make payment of my notice period, I consider that will give rise to a personal grievance for disadvantage and is an unlawful act under the WP Act.
2. I have suffered genuine upset, distress and financial hardship as a result.
3. Therefore, I seek the following:
	1. Unpaid wages from [insert] until [insert] 2021.
	2. Compensation for upset and distress under s 123 (1)(c)(i) Employment Relations Act 2000.
	3. Legal costs.
	4. Penalty under the Wages Protection Act 1983 for breach of the Act payable to me.

**Next steps**

1. I await your urgent response, and look forward to hearing from you within a week of the date of this letter.
2. Should the employer not agree to pay my notice I shall request mediation between us with the Ministry of Business and Innovation in Employment.

Sincerely

**Your Name**

**Your contact details**