Firing an Employee in Ohio: Employer Cheat Sheet

Ohio is an at-will state, so you can usually fire someone for any lawful reason or no reason. Most claims don't come from the firing itself. They come from what the owner said, paid, or put in writing along the way.

Most small employers are covered by more than they think. Count all employees, including part-time.

Employees	What starts applying:
1+	Ohio wage payment rules, unemployment compensation, workers' comp retaliation protections
4+	Ohio discrimination law, including age (40 and over)
15+	Federal Title VII (race, color, religion, sex, national origin) and the ADA
20+	Federal age discrimination law (ADEA) and COBRA health continuation
50+	Family and Medical Leave Act (FMLA)

Before the decision:

- Document the problem as it happens. Dated, specific notes the employee has seen and signed beat a memory of "he was always behind."
- Check that you held everyone to the same standard. If two other reps missed the same goals and kept their jobs, you have a problem.
- Ask whether anything else is going on. A recent complaint, injury, medical leave, pregnancy, or workers' comp claim changes the risk. Call an attorney before acting.
- Talk to your business partner, your payroll provider, and whoever controls system access. Don't tell coworkers ahead of time.
- Don't start interviewing a replacement where the employee can find out.

The meeting:

- Give one reason and stick to it. If you say "restructuring" in the meeting and "poor performance" later, an attorney will call the first one a cover story.
- Keep it short. The decision is made, so the meeting isn't a debate or another review.
- Have a second person in the room to take notes.
- If the employee raises something new (a health issue, a complaint, "you're replacing me with someone younger"), write it down, end the meeting, and call an attorney before finalizing anything.
- Cut off system and customer-account access during or right after the meeting, not the next day.

The first week after:

- Pay final wages by the next regular payday. Pay any commission or bonus already earned under the plan, even if you fired them for poor sales. Unpaid earned commission is one of the easiest claims to bring. Pay out unused vacation if your written policy says you will. If you have no written policy, get one.
- Send benefits and health-coverage continuation notices on time.
- Call key customers yourself, the same day if possible. Keep it short and factual, and give them their new contact.
- Tell remaining staff only what they need to know. "John no longer works here, and here's who covers his accounts" is enough.
- Think before contesting unemployment. You may win, but you may also turn a quiet exit into a fight.

Severance and the separation agreement:

You usually don't have to offer severance. When you do, you're paying for protections you don't already have, so get them in writing:

- A release of claims against the business.
- Mutual non-disparagement, and an agreed neutral reference (dates and job title).
- A promise not to solicit your customers or employees, if they didn't already sign one.
- Return of company property, files, and customer lists.

If the employee is 40 or older and you have 20 or more employees, federal law adds requirements to the release: 21 days to consider it, 7 days to change their mind after signing, and written advice to talk to an attorney. Have an attorney draft or review any separation agreement before you hand it over.

Questions? Contact ALH Law Group at info@alhlaw.com or (614) 440-1395.