

What Are Sufficient Grounds to Terminate an Employee?

Rav Yitzchak Grossman

Question: What are sufficient grounds to terminate an employee?

Answer: As we said, some Poskim say that if no commitment exists, an at-will employee can be terminated at any time. If a contract does exist, and according to the opinion of Rav Moshe Feinstein, even if a contract does not exist, certain terms must be met for an employer to have the right to terminate an employee.

If the employee is outright corrupt in that he steals from the business, discloses confidential information to competitors, etc., the Poskim assume that this is grounds to terminate him. Regarding the standard of proof, some earlier Poskim say that it is sufficient for the employer to have grounds to suspect him of doing these things. Later Poskim explain that this only means that *documented* proof is not necessary; however, there must be enough substantial grounds to believe that the employee actually did something wrong.

If the employee is not deliberately doing anything wrong but is completely unfit for the job, the employer cannot be forced to retain him. But if he basically can do the job but occasionally makes mistakes that cost the business money, halacha differentiates between a case where the losses can be tracked and recouped at the employee's expense - in which case he should not be terminated - and cases where the losses cannot be recovered. In the latter type of cases, there may be grounds to terminate the employee as soon as there is a *chazakah* that he does this repeatedly and probably will continue to do so.