

If you get fired from your job there are a lot of options available to you to enforce your rights including claims under the *Employment Standards Act (ESA)*, *Canada Labour Code*, *Human Rights Code* or a wrongful dismissal lawsuit in court. If you are unionized, you should speak with your union representative as soon as you are fired. Your union can explain to you the protections available in your union's collective agreement.

If your employer does not have an acceptable reason for firing you, the employer must give you notice. This means that your employer has to tell you in advance that you will be fired. Your employer can also pay you for a period of time instead of giving notice. If you didn't get notice or pay instead of notice, you have two options. You can make a claim to the Ministry of Labour under the *ESA*. Or, you can sue for wrongful dismissal in Small Claims Court (claims \$25,000 or less) or Superior Court. There are different limitation periods for making each kind of claim. You should speak to a lawyer as soon as possible.

For the majority of employees, the *ESA* sets out the minimum notice period you are entitled to under the law. If you have worked at your job for at least 3 months, you are entitled to notice. In general, you are entitled to 1 week's notice for each year that you worked up to a maximum of 8 weeks. You may also be entitled to severance pay, depending on the size of your employer and the length of your employment. The notice period for "federally regulated" employees is different as this falls under the *Canada Labour Code*. Speak to a lawyer if you are not sure whether you are federally regulated.

Another option is to sue your employer in Superior Court or Small Claims Court for wrongful dismissal instead of making an *ESA* claim. While there is no set amount of notice you can receive in court, it is not unreasonable to ask for 1 month's pay per year of service.

If your employer has a good legal reason for firing you, for example, fraud, theft, unexplained absences or workplace violence, you may not be entitled to anything and your employer may not have to give you notice.

Finally, you cannot be fired if the reason you are being fired is protected by the *Ontario Human Rights Code* (your age, disability, race, sex, etc.) or if you are fired as a punishment for making a claim to enforce your rights, such as a claim under the *ESA* for violation of your workplace rights.

When you are fired, remember that you should look for work and keep track of your job search efforts. You should also apply for Employment Insurance (EI) immediately. If you are denied EI benefits, you may be able to appeal the decision. It is important that you speak to a lawyer so that you are fully informed of your rights.

---

This column is not intended to provide legal advice; it is just general legal information provided by volunteer local lawyers and the staff of community legal clinics and Legal Aid Ontario. The law can change. You must contact a lawyer to determine your legal rights and obligations. If you are living on a low income, you may be eligible for free legal help from Legal Aid Ontario (criminal, family or immigration) or your local community legal clinic (income security programs, employment law, tenants' rights, or human rights). You can reach Legal Aid Ontario at 1-800-668-8258 or visit them online at [www.legalaid.on.ca](http://www.legalaid.on.ca). Contact the Community Advocacy & Legal Centre at 1-877-966-8686 for more information or visit [www.communitylegalcentre.ca](http://www.communitylegalcentre.ca).

www.communitylegalcentre.ca

158 George Street, Level 1  
Belleville, ON K8N 3H2  
Toll Free: 1 877 966 8686  
Tele: (613) 966 8686  
Fax: (613) 966 6251  
TTY: (613) 966 8714

Your community legal clinic