



Community Advocacy & Legal Centre

EMPLOYMENT STANDARDS IN THE WORKPLACE

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August 2016

LEGAL INFORMATION

The *Employment Standards Act, 2000* (ESA) sets out minimum standards of employment in most Ontario workplaces. The Ministry of Labour is responsible for enforcing the ESA.

There are many rights that have general application, but there are also exemptions to many of the minimum standards. The Ministry Fact sheets help by providing more information. Broadly speaking, employment standards rights can be broken down into the following categories:

Payment issues: minimum wage; termination and severance; equal pay for equal work; benefit plans

Hours of Work issues: vacation entitlement; hours of work, eating periods and overtime; public holidays; leaves of absence; retail business public holidays

Administration/Enforcement issues: continuity of employment (successor employers); posting of information; records; anti-reprisals; liability of directors; complaints and enforcement

Other issues: lie detectors; access to benefit plans

ENFORCING MINIMUM STANDARDS

"How to File a Claim Under the *Employment Standards Act, 2000*" is available on the Ministry of Labour website. Keep in mind that you cannot sue in court for wrongful dismissal and file a claim to the Ministry to recover the same money.

The ESA protects employees who try to enforce their rights from reprisals. This means that you cannot be disciplined (i.e. demoted, disciplined or fired) because you tried to understand or enforce your rights.

The employee can ask that her name not be disclosed to the employer. If an employee does not permit her name to be used, the employer may have an easier time rebutting the reprisal presumption.

TIME FOR MAKING A CLAIM

Claims such as those for unpaid wages, reprisal, or leave violations, must be made within 2 years.

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MONEY YOU CAN CLAIM

As of February 20, 2015, there is no dollar limit for claims.

CLAIM PROCESS

After you have filed a claim with the Ministry, it will be investigated by an Employment Standards Officer (ESO). This person has the power to order fact finding meetings and inspect workplaces and documents and make an order for the employer to pay you.

APPEALS

If you disagree with the decision of the ESO, you can appeal. The appeal is made to the Ontario Labour Relations Board (OLRB) and has to be made within 30 days of the Order. For more information, refer to the OLRB website where you will find the forms needed.

RESOURCES:

- Ministry of Labour, Employment Standards Information Centre: 1-800-531-5551
- Ministry of Labour website, Employment Standards Fact sheets
- www.labour.gov.on.ca/english/es/pubs/complete.php
- Ministry of Labour Guide to the ESA: <https://www.labour.gov.on.ca/english/es/pubs/guide/index.php>
- How to File a Claim Under the *Employment Standards Act, 2000*:
<https://www.labour.gov.on.ca/english/es/forms/claim.php>
- Ontario Labour Relations Board website: www.olrb.gov.on.ca

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