

Know Your Rights At Work

The Basics – Employment Standards in Ontario

Signing a Contract

You cannot sign away your rights. If you sign a contract that has conditions below minimum standards, your boss is breaking the law, not you. Even if you sign, you are still entitled to your rights under the law.

Minimum Wage

You must be paid at least the minimum wage for every hour you work. Not all workers have jobs that are covered by the minimum wage and some jobs have different rates.

Equal Pay for Equal Work

As of April 1, 2018, employers cannot pay you less because of your job status. If you are a part-time, temporary, casual, or seasonal worker doing substantially the same job as full-time workers, you cannot be paid less. If you work through a temporary help agency doing substantially the same job as permanent workers, you cannot be paid less. Call us to find out more.

Weekly Hours

The maximum number of hours your boss can schedule you in a week is 48. If your boss wants you to work more, they must ask you to sign a written agreement and the boss has to get approval from the Ministry of Labour. It is your legal right to refuse.

Daily Hours & Breaks

The maximum number of hours you can work in a day at one job is 13. This includes a half hour unpaid break for every 5 hours you work. Your boss should not force you to work more than your “regular work day”. There are some exceptions where you could be asked to stay later.

Overtime

After working 44 hours in one week, you should get 1.5 times your regular pay. You can agree in writing to take

paid time off instead of overtime pay. You should get 1.5 hours paid time off for each hour of overtime. Is your boss averaging your overtime over more weeks? This usually means less pay for you!

10 days Personal Emergency Leave

You are entitled to 10 personal emergency leave days per year. The first 2 days will be paid at your regular rate of pay. This leave is for your own illness, injury or medical emergency, or for the death, illness, injury, medical emergency or urgent matter of your family members. Your employer cannot ask you for a note from your doctor to take these 10 days. Your employer is required to provide you with this leave and cannot penalize you for taking it.

Domestic or Sexual Violence Leave

If you or your child experiences domestic or sexual violence, or the threat of domestic or sexual violence, you are entitled to up to 10 individual days of leave and up to 15 weeks of leave. The first 5 of these days in each calendar year will be paid. The remainder will be unpaid. You must have worked for the same employer for at least 13 consecutive weeks to qualify for this leave.

Vacation

After 1 year working for the same employer, you are entitled to take off 2 weeks of paid vacation. You are entitled to 4% vacation pay for every dollar you earn. Your vacation pay should be paid at the time you take your vacation. After 5 years working for the same employer, you get 3 weeks vacation with 6% vacation pay. Employers can ask you to agree in writing to receive your 4% vacation pay (or 6% after 5 years) on each pay cheque, and you will still be entitled to take vacation time off. If you leave a job without taking vacation, get any vacation pay owed to you.

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Public Holidays

There are 9 public holidays in Ontario: New Year's Day, Family Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving, Christmas Day, Boxing Day. You must work your regularly scheduled shift before and after the holiday to qualify for public holiday pay. Public holiday pay is calculated by adding up all the regular wages you earned in the pay period before the public holiday and dividing that total by the number of days you worked in that period. If you work on a public holiday you can agree in writing to be paid premium pay (1.5 times your regular rate for all hours worked) and public holiday pay OR to work on the public holiday at your regular rate and take another day off with public holiday pay

Termination Notice or Pay

Your boss can terminate you without notice if you have worked less than 3 months. After 3 months, your boss must give you written notice of the date you will be terminated. If you do not get notice, you should get pay instead. The amount of termination pay or notice you get depends on how long you have worked for your boss, up to a maximum of 8 weeks. If you work through a temporary help agency and were offered an assignment of 3 months or more but were terminated early, you get 1 week of notice or pay in lieu.

Who is covered under the law?

Even if you are part-time, temporary, working through an agency or do not have status, you have rights under the ESA. The Ministry of Labour is the provincial government department that enforces our labour rights. This is where workers can file a claim for unpaid wages or other violations. This is a free service. Not all workers are covered equally under the law. Some workers, like farmworkers or landscapers, do not have the same rights to minimum wage, overtime or public holiday pay. If you are self-employed, you are not covered under the ESA. If your boss calls you self-employed just to pay you less but you are actually an employee, this is called misclassification. This is against the law! You can file a claim at the Ministry of Labour or go to small claims court for any wages owing to you. Call the Ministry of Labour to find out if there are any special rules for your job.

Employment Rights Information

Your employer must post an Employment Standards poster in your workplace where workers will likely see it. The poster is called "What You Should Know about the Ontario Employment Standards Act". Employers are required to give each new worker a copy of this poster. You should receive it within 30 days of being hired. You have the right to ask for the poster in your first language.

Coming in 2019:

\$15 General Minimum Wage:

- \$14.10 minimum wage for students under 18
- \$13.05 minimum wage for liquor servers

Fairer Scheduling:

- You will have the job-protected right to refuse shifts if your boss gives less than 4 days' (96 hours') notice.
- You will have the job-protected right to ask for a schedule or location change after working at a company for 3 months.
- You will get 3 hours of pay for shift cancellation with less than 2 days' (48 hours') notice.
- On-call workers will get 3 hours of pay if they are not called in or work for less than 3 hours.

Support and Resources

Workers' Action Centre

There are other laws in Ontario that protect you on the job such as the Ontario Human Rights Code or the Occupational Health and Safety Act. Hiring a lawyer or going to small claims court are also options for collecting your unpaid wages. Call our Workers' Rights Hotline for support and referrals. Our online factsheets also provide information on various work-related issues.

416-531-0778 www.workersactioncentre.org

Ministry of Labour

Contact the Ministry of Labour for information on your rights under the Employment Standards Act and how to file a claim. Visit their website for tools to help you calculate unpaid wages.

1-800-531-5551 www.labour.gov.on.ca