

The Basics: Employment Standards in Ontario

WHAT IS THE ONTARIO EMPLOYMENT STANDARDS ACT?

The Employment Standards Act (ESA) is the minimum standards that your employer must follow. You cannot sign away your rights. Even if you sign a contract agreeing to work below these standards, you are still entitled to them. You do not have to be a citizen, permanent resident or have a work permit to be covered by the ESA. Even if you are on probation, part time or temporary, you are still covered by the ESA.

Not all workers are covered equally under the law however. Some workers, such as farm workers or building superintendents, do not have the same rights to minimum wage or overtime pay, for example. Also, if you are self-employed, you are not covered by the ESA. Finally, federally regulated jobs, such as in banks or telecommunications, are covered by the Canada Labour Code instead.

This factsheet does not cover every detail of the ESA. Please give the Workers' Action Centre a call if you need help with your workplace rights.

MINIMUM WAGE

For most jobs, you must be paid at least minimum wage for every hour you work. Even if you work on commission or do piecework, you are still entitled to minimum wage. The general minimum wage is \$17.20 per hour. However, students under 18 years old who work 28 hours or less per week earn a minimum of \$16.20 per hour.

HOURS OF WORK

Generally, your maximum hours of work are 8 hours per day and 48 hours per week. Your employer can ask you to agree in writing to work more than the weekly maximum.

You must be able to take a 30-minute unpaid break after each 5 hours that you have worked. You can also split it into two unpaid breaks adding up to 30 minutes within a 5-hour period.

There are no rules about when your employer must give you your work schedule. There are no rules about having to be scheduled to work a minimum number of hours a week.

OVERTIME

After working 44 hours in one week, you should get 1.5 times your regular pay for each overtime hour worked. Your employer can ask you to average your overtime over more than one week. For example, if you work 40 hours one week and 60 the next, on average you worked 50 hours a week. In which case you are only paid 12 hours overtime rather than 16 without averaging.

Alternatively, you can agree in writing with your employer to take paid time off instead of overtime pay. You should get 1.5 hours of paid time off for each hour of overtime.

JOB-PROTECTED LEAVES

You are entitled to several job-protected leaves. These include for example:

Sick Leave: 3 days unpaid leave for your own personal illness, injury or medical emergency.

Family Responsibility Leave: 3 days unpaid for illness, injury, medical emergency, or urgent matter for family members.

Pregnancy leave: Pregnant employees are entitled up to 17 weeks of unpaid leave.

Parental leave: Mothers who took pregnancy leave can take up to 61 weeks of unpaid leave. All other new parents can take up to 63 weeks of unpaid leave.

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VACATION TIME AND PAY

After working for the same employer for 1 year, you are entitled to take off 2 weeks of vacation time.

After working for the same employer for 5 years, you are entitled to take 3 weeks of vacation time.

Vacation time and vacation pay are different. Even if you do not qualify for vacation time in the first year of work, or do not take your vacation time, you are still entitled to your vacation pay. Even after working for 1 hour, you are entitled to vacation pay.

Your vacation pay starts at 4% of every dollar you earn. After working for the same employer for 5 years, your vacation pay is 6% of every dollar you earn. You generally are paid your vacation pay when you take your vacation time. Alternatively, you may have an agreement to be paid your vacation pay on each pay cheque.

PUBLIC HOLIDAYS

You are entitled to 9 paid public holidays each year: New Year's Day, Family Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving, Christmas Day, Boxing Day.

Public holiday pay is the total of your previous 4 weeks' earnings divided by 20. You must work your regularly scheduled shift before and after the holiday to qualify for public holiday pay.

If you do work on a public holiday, you can agree in writing to be paid premium pay (1.5 times your regular rate per hour) and public holiday pay. Alternatively, you can work on the public holiday at your regular rate and take another day off with public holiday pay.

TERMINATION NOTICE AND 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 termination pay instead or a combination of the two. The amount of termination pay or notice you get depends on how long you have worked for your employer, up to a maximum of 8 weeks for working 8 years.

TEMP AGENCY WORKER RIGHTS

Temp agency workers generally have the same rights as other employees under the ESA. In addition, please remember:

- An agency cannot charge you a fee for being its employee or for helping you find an assignment.
- If an agency offered an assignment of 3 months or more, but you were terminated early, you must get 1 week of notice or pay in lieu of notice.
- If an agency does not pay your wages, then the client company is responsible for the money you are owed.

HOW TO FIGHT FOR YOUR RIGHTS

You cannot be punished for asking for or exercising any of your rights at work.

Please call our Workers' Rights Hotline at the Workers' Action Centre for more information about any issue you have with your rights at work.

416-531-0778 | www.workersactioncentre.org

If your rights are violated, one option is to file a claim for free at the Ministry of Labour or file a claim at small claims court.

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