

# Are you a truck driver? Facing Unfair Conditions on the Job?

Many truck drivers are dealing with poor working conditions, illegal deductions and pressure to work longer hours. We want to make sure some common questions about labour rights are answered in this fact sheet. Please let us know if you need help! All calls are confidential.

## **Are you covered by Ontario Labour Laws or Federal Labour Laws?**

If your company transports goods outside of Ontario or Canada then you are most likely covered by the Canada Labour Code which is federal. But if your company only does transportation within Ontario then you will need to look at provincial labour rules for your rights.

This factsheet has information mainly about federal rules. If you only drive in Ontario, please contact us to get more information on your rights.

## **Are you an employee or independent contractor?**

Many trucking companies tell drivers that they are an independent contractor and NOT an employee.

Why is this so important for us? Well, it can make a big difference in what rights you have, what benefits you get, and what protection you have under the law. Employers might want you to be an

independent contractor so that they can take illegal deductions off your paycheck and not pay you the wage you should be getting. Independent contractors don't have the same rights as employees under the law. Only employees have the right to vacation, public holidays, overtime pay and much more.

Even if your boss misclassified you as an independent contractor and you signed a contract agreeing to this, you still have rights. Contact us to find out what you can do.

## **Hours of work and overtime**

A highway driver cannot be required to drive more than 13 hours a day or be on duty more than 14 hours. You must get 8 hours off between shifts.

Overtime pay must be paid for each hour worked over 60 hours a week (1 and ½ times your regular rate of pay for each hour of overtime). You can agree to take paid time off instead of overtime pay, but you must agree to it in writing.

### Minimum wage

The federal minimum wage will be \$15 starting December 29, 2021. Even if you get paid by the job or by kilometer, you still must be paid at least minimum wage for every hour worked.

The Ontario minimum wage is \$14.35. If your company is under provincial rules, you must be paid at least minimum wage for every hour worked.

### Deductions

Many truck drivers get money taken from their wages by their employer for things like speeding tickets, damages to vehicles,

insurance payments etc. These are illegal deductions **IF** you have not agreed to this.

Your employer must have your written agreement in order to take a specific amount of money from your wages. They need this authorization every time they want to take money. They cannot just make you sign one agreement and apply it to every pay cheque.

You **do not** have to sign this agreement by your employment. It must be voluntary. If your boss forced you to sign an agreement, then it is not valid and you can fight to get any illegal deductions paid back to you.

### Vacation Time and Pay

| Years of Employment | Vacation Time | Vacation Pay (for every dollar earned) |
|---------------------|---------------|--|
| Less than one year  | 0 weeks       | 4%                                     |
| 1 to 5 years        | 2 weeks       | 4%                                     |
| 6 to 10 years       | 3 weeks       | 6%                                     |
| 10 plus years       | 4 weeks       | 8%                                     |

### Public Holiday Pay

There are 10 paid federal public holidays per year. If you work on the holiday, you should be paid public holiday pay plus paid time and one-half of your regular rate of pay for each hour worked. Or you could work and receive public holiday and another paid day off at another time. If you don't work

during the public holiday, you should receive public holiday pay.

New Year's Day, Good Friday, Victoria Day, Canada Day, Labour Day, National Day for Truth & Reconciliation, Thanksgiving Day, Remembrance Day, Christmas Day and Boxing Day.

### **Sick Leave**

You should get up to 5 days of unpaid sick leave each year. After 3 months of work, 3 of these days must be paid. The sick days can be used for your illness or to take care of a family member that is sick.

### **Termination Pay**

If you are laid off or terminated from work, then you should get two weeks' notice or pay in lieu of notice. This kicks in after 3 months of work.

Legally you do not have to give notice to your boss that you are resigning. If you do give notice and your employer stops giving you work then they still owe you termination pay.

### **Reprisal**

It is illegal for your boss to fire or penalize you for asking about or exercising your rights. If this happens, keep copies of any emails, texts, or other information that shows your boss has penalized you.

## **PROTECT YOURSELF!**

- Get a copy of your contract. Don't sign it before you have a chance to review it.
- If an employer does not give you a contract, make sure the terms of your employment are in writing somewhere and keep a copy (sample text: Hi Harpreet. I just want to confirm that you will be paying me \$23 an hour and that I will be getting 5 days of work each week and 10 hours of work each day.).
- Keep your own record of the hours, dates and location where you worked, and any problems that happen. Keep this record at home or on your personal cell phone.
- Keep records of any communication you have with your employer: texts, emails, phone calls, letters, pay stubs and T4s.

### **Health & Safety**

Right to know - your employer must let you know about any dangers on the job and provide proper information, training and supervision to prevent any foreseeable danger.

Right to participate- workplaces must have a health and safety committee or rep that is selected by employees.

Right to refuse - you have a right to refuse unsafe work. Find out what you need to do if this happens to you.

### **Workers' Compensation**

WSIB (Workplace Safety and Insurance Board) is a compensation program that you may access if you are injured or become ill from work. Even if you are an independent contractor, you may be eligible for WSIB if you are injured on the job.

Let your doctor know that you were injured at work and they can file a report for you. Apply for WSIB as soon as possible after the injury or illness.

- If you get paid in cash, write down the dates and hours you worked, and how much you have been paid. Keep copies of any email transfers, receipts from payday loan or cash stores, or other evidence that shows your employer pays you. You may still qualify for EI – apply as soon as you stop working.
- If you are injured or get sick at work, report the accident as soon as possible. Your boss may try to convince you not to report an accident. If this happens, write down all the details of what happened and call us for help.
- If you have been threatened or punished for asking about your rights, write down the details of what happened and call us for help.
- Put any discussions of issues you have with the employer in writing (sample text: Hi Bob, I am still waiting to get paid for July 15 to 30, 2021. I am owed \$2,561. Please let me know when I will get the money.).
- If you are owed money, don't wait too long to get help.

### What if your boss owes you money?

You can file a claim to get unpaid wages, illegal deductions and other violations of your rights addressed.

|  | <b>Ontario Ministry of Labour</b> - provincial rules | <b>Federal Labour Program</b> - federal rules | <b>Small Claims Court</b> - federal or provincial rules |
|--|--|---|---|
| How complicated?                                   | easier   | easier  | complicated   |
| Cost to file a claim                               | free   | free  | \$100 to file, up to \$400+ for other fees.             |
| How long does it take                              | 6 to 9 months  | 6 to 9 months                                 | 1 to 3 years  |
| Time limit to make a claim from when money is owed | 2 years  | 6 months                                      | 2 years   |

### HOW TO FIGHT FOR YOUR RIGHTS

You cannot be punished about 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 | <https://www.workersactioncentre.org/>