



ARE YOU AN INDEPENDENT CONTRACTOR OR EMPLOYEE?

Some companies tell workers they are independent contractors even when they are truly employees. They do this to avoid following basic labour laws and paying employee benefits and other costs. This is called misclassification of workers. Know what steps to take to determine your status as a worker and understand which laws protect you.

KNOW THE DIFFERENCE

Employment status (whether we are employees or independent contractors) directly affects our entitlement to basic rights such as minimum wage, overtime pay, health & safety protections, job-protected leaves, human rights and the right to bargain collectively and join a union.

Employment status also affects our right to Employment Insurance (EI), Canada Pension Plan (CPP) and Workplace Safety and Insurance (WSIB) or workers' compensation as it is often called. It affects how we are treated under the Income Tax Act. Employment status also affects what we can do when wages go unpaid or problems happen at work.

You may be an EMPLOYEE when at least some of the following describes your work:

- You receive training from the company.
- The company supervises your work.
- You do not have control over your work, hours or rate of pay.
- You work with tools or equipment that the company gives you.
- Your boss is the one who makes a profit or loss. You don't pay the costs of running the business or get the profits over and above your wages.
- Your work is clearly part of the business.

You may be an INDEPENDENT CONTRACTOR or SELF-EMPLOYED when some of the following describes your work:

- You control how your work is done. You may hire other people to assist in doing the work and you, not the company, direct their work.
- You can freely negotiate your pay and when your work has to be done.
- You own and are responsible for some of the tools or equipment you use to work.
- You take the profit or loss from the work. If there is a profit, you receive it, and if there is a loss – then you are responsible for the loss.
- You are not part of the business. You have a freedom to choose who you work for and can work for different companies at the same time.

What if you still don't know the difference?

Sometimes you can't tell whether you are an independent contractor or employee. For example, your boss might supervise your work, but you use some of your own tools. **Call the Workers' Action Centre for information on resources to help you determine your employment status.**

PROTECT YOURSELF

Even if you sign a contract saying you are an independent contractor, you may not be. And, your employer cannot simply change your employment status by paying you like an independent contractor. If you sign a contract that says you are an independent contractor when you are truly an employee, you should not lose your rights as an employee.

- Ask for time to read a contract before you sign it. If your boss pressures you to sign your contract without reading it, try to get a copy of the contract or take a photo of it. Keep copies of any contracts you receive.
- Write down the details of your work: dates, hours, pay you received and details about the work you do every day. If you need to ask for your overtime pay, vacation pay or even minimum wage, it will help to have this documentation.
- It is illegal for your boss to fire you for speaking about your rights. If this happens to you, write down the details of how and when you were fired. Your boss may also force you to quit by harassing you at work. Write down the details of the harassment.
- Talk to other workers. Find out if they signed the same contract. Attend a Workers' Action Centre info session as a group to learn how you can protect yourself.
- Write down any information about your boss and the company that you can find: name, title, work and home address, phone numbers, license plate number.
- If you are fired, forced to quit or laid off, you may be eligible for Employment Insurance. Your detailed records will help when applying for EI benefits.
- File a complaint at the Ministry of Labour. It may be difficult to prove that you are an employee. Contact the Workers' Action Centre for assistance.

If you think your rights have been violated, call the **Workers' Action Centre** to get help. Workers Action Centre: (416) 531-0778 / 1-855-531-0778 or www.workersactioncentre.org



Steve is an electrician. He worked for a company for over a year. He was treated as an employee. After a brief layoff, Steve returned to work. Only this time the boss said that Steve was now an independent contractor. The company stopped paying EI, CPP, holiday pay, vacation pay and deducting taxes. The boss never told him why his employment status changed and he never signed an agreement with Steve and his coworkers. Steve believes he is not a contractor and he does not understand what the employer means when he says Steve is a subcontractor. Many workers like Steve are really employees that have been misclassified.