



# What to expect from the Employment Standards Complaint Process

This fact sheet outlines the steps that the Ministry of Labour takes to investigate your Employment Standards Act (ESA) complaint. If you have questions about the investigation process, contact the Workers Action Centre for support.

- **Claim Number:** Once you have filed an *Employment Standards Act* complaint you will receive a claim number. You should use this number when you contact the Ministry of Labour about your claim.
- **Your employer cannot punish you for filing an ESA Claim:** Your employer will be given details about your ESA complaint. They will be given your name but not your phone number or address. Remember, it is illegal for your employer to threaten, discipline, or punish you for trying to enforce your ESA rights.
- **Translation services available:** If English is not your first language, you should let the Ministry of Labour know that you want **language interpretation** services when dealing with the Ministry of Labour.
- **Timeline:** It may take between 6-8 months before you get a decision from the Ministry of Labour about your claim.
- There is no possibility that you will owe money due to filing an ESA complaint.
- Though it is called the Ministry of Labour, Immigration, Training and Skills Development, the Ministry does not investigate your immigration status and generally should not ask you questions about your status if you have filed an ESA complaint.

## What to Expect from the *ESA* Complaint Process?

**Step 1:** Your claim will be assigned to an Employment Standards Officer (ESO)

- The ESO will check your claim to see if any information is missing. They may contact you by phone or email to ask you for more information. **You will have 15 days to provide the information.**
- The ESO will tell your employer about the complaint. The ESO will ask the employer if they will fix the problem (pay your unpaid wages, for example). If your employer does not want to fix the problem then the ESO will start an investigation.
- If the employer does want to fix the problem then you and your employer can talk about the problem. You can agree to settle on an amount of money that your employer will pay you. If your employer offers you less money than you think you are owed, you do not have to agree to it. Your complaint will be investigated.

**If you have questions about any step of the *ESA* claims process, contact the Workers Action Centre for support:** 416-531-0778 | Toll Free: 1-855-531-0778 | [info@workersactioncentre.org](mailto:info@workersactioncentre.org)



## Step 2: Investigation of your claim

If the claim is not settled, a different Employment Standards Officer (ESO) will conduct an investigation. The Employment Standards Officer may tell you that they are “escalating” the claim when they start the investigation, that does not mean that anything bad will happen.

- The ESO will look at all the information you provide to decide if your employer broke the law.
- The ESO will ask your employer if they broke the law. Your employer may provide the ESO with information to prove their position.
- The ESO may talk to you by phone or by email to get more information about your case. **You are supposed to be given 15 days’ notice.** They may also ask you or the Employer to provide further documents or records.
- If you do not provide the information requested by the ESO, they will decide your case based on the information you provided when you filed your claim.

### Tips for the Employment Standards Investigation:

- Pay close attention to what the ESO is asking you. Respond specifically to their questions and in as much detail as possible.
- Do not try to guess what they want to hear or withhold information that you think will not work in your favour. Just be honest about what your experience was at work.
- If you are asked about something and cannot remember the answer, it is okay to say that you do not remember. It is the employer’s responsibility to keep records of hours and pay. If they have not kept these records, that in itself is a violation of the *Employment Standards Act*.

**Step 3:** The Employment Standards Officer will write a decision explaining if the *Employment Standards Act* was broken and what money, if any, is owing.

- **Orders to Pay:** If the Officer finds the employer owes you unpaid wages (including overtime, vacation, public holiday, severance/termination pay), the ESO will order your employer to pay you that specific amount.
- **Non-Monetary Orders:** The Officer can also make other kinds of orders against employers to stop them from breaking the law. For example, if your employer did not give lunch breaks, the employer could be ordered to do so.



## Appeals

If you disagree with the ESO's decision, you can have your case looked at by other decision makers. This is called an appeal to the Ontario Labour Relations Board (OLRB). You must make your application for this **within 30 days** of the decision. You will have to make arguments about your case again.

The Employer also has a right to appeal the decision within 30 days. If the Employer files an appeal, you automatically have a right to participate in the OLRB proceedings. You will be given a copy of their arguments and any materials they provided with it.

If you are making an appeal or responding to an appeal, there are rules that need to be followed. You should consult the OLRB's [Information Bulletin #24](#) for more information on how to make an application for review and what to expect from the OLRB process.

If your employer appeals a decision in your case, call the Workers Action Centre for further support and information.

## Enforcement of Orders to Pay

If the ESO issues an order to pay wages and the Employer does not appeal the decision, the Ministry of Labour and/or Ministry of Finance will try to make your employer pay you.

Sometimes employers do not pay workers even if they were ordered to do so. If that happens to you, contact the ESO. You may have information about the employer that could help the Ministry collect your money.

If the Ministry of Labour issues an Order to Pay but the employer does not pay, call the Workers Action Centre for further support and information.