

Introduction

Read these instructions before you start to fill out this form.

Note: *In this booklet, the **Employment Standards Act, 2000** is called the **ESA**.*

This information is provided as a public service. Although we try to ensure that the information is as current and accurate as possible. We cannot guarantee the accuracy of the information. Readers should where possible verify the information before acting on it.

Are you protected by the ESA?

The ESA applies to most, but not all employers and employees in Ontario.

You should know that:

The ESA does not apply to you if you work for any employer under federal jurisdiction; for example, post offices, airlines, banks, and TV and radio stations. Employees in these industries should contact the federal labour program of Human Resources and Skills Development or HRSDC (which used to be called Human Resources Development Canada or HRDC).

Also, employees on **certain jobs are not covered by all parts of the ESA**, for example, doctors, lawyers, architects, teachers and students training in those professions.

If you want to know whether you are covered by the ESA, the Fact Sheet *“How are You covered by the ESA?”* will help. Fact Sheets and other information about employment standards are available in more than 20 languages on the Ministry of Labour’s website at www.labour.gov.on.ca and at ServiceOntario Centres.

If you are represented by a union, you should ask your union representative for assistance before you decide to file a claim. Also, if you belong to a union and you still want to file a claim, you must first get approval from the Ministry of Labour’s Director of Employment Standards.

In most cases, if you have already started a court action against the employer you **cannot** file a claim for the same matter.

If, after you file a claim, you then wish to start a court action against your employer for the same matter, you must withdraw your claim within two weeks from the filing date in order to proceed with the court action.

How to contact us

Call the Employment Standards Information Centre at 416-326-7160, our Toll Free line at 1-800-531-5551 from anywhere in Canada, or 1-866-567-8893 for Hearing Impaired TTY. **Please have a pen, paper and a list of your questions ready before you telephone us.**

After you have completed the claim form, you should drop it off at the nearest ServiceOntario Centre. For the nearest location to you, call 1-800-267-8097 or visit the Ministry’s website at www.labour.gov.on.ca/english/es/claim. You can also fax it to 1-888-252-4684, or mail it to:

Ministry of Labour,
Provincial Claims Distribution Centre
70 Foster Drive, Suite 480
Roberta Bondar Place
Sault Ste. Marie ON P6A 6V4

Some helpful information:

If you believe your rights have been violated, you should first try to resolve the matter with your employer.

- For example, speak with your employer or send the employer a letter.
- If you choose to write a letter, try to explain what the problem is and how you expect the employer to resolve it.

You can get a Ministry of Labour self help kit to help you calculate any money you think your employer owes you. **The Self Help Kit** also has a form letter that you can send to your employer and other helpful information. You can download the self help kit from the Ministry's website or call 416-326-7160 or 1-800-531-5551 to find the nearest place where you can pick one up. **Always keep a copy of your letter and proof of how you sent it to your employer.** For example, if you send the letter by registered mail, make sure you keep the registered mail receipt and a copy of the letter.

If you are unable to resolve the matter by yourself, contact the Ministry of Labour for assistance.

If you decide to file a claim against your employer, an Employment Standards Officer will be assigned to handle your claim after the Ministry of Labour has received it. The officer will contact you.

The investigation of your claim will take time. For instance:

- The officer may attempt to encourage the employer to resolve the complaint without starting a formal investigation.
- If that doesn't work, the officer may conduct a formal investigation.
- The officer must first collect and review all of the evidence before deciding if the employer has violated the ESA.
- If the officer finds that there was a violation, the employer can resolve the issue by voluntarily complying with the officer's decision.
- If an employer does not comply with the officer's decision, the officer can issue an order which the employer can appeal to the Ontario Labour Relations Board.
- If the Ministry of Labour is unable to collect money that is owed to you, the Ministry may then authorize a collection agency to try to collect the money.
- The Ministry of Labour may also choose to prosecute the employer. The Court may impose a fine or term of imprisonment, or both.

It is important for you to file a claim within a certain time.

There are three different time limits:

Six-Months

In most cases, the Ministry of Labour can only recover wages that became due within the six months before the date you file the claim.

Generally, wages become due (owed to you) on your regular payday. However, if the employer terminated your employment, all wages that the employer owes you are due either within seven days, or on your next regular payday, whichever is later.

One Year

If the investigator finds that the employer has committed the same violation of the ESA more than once, including at least once in the previous six months, the investigator can issue an order for wages owed to you as a result of the violation in the 12 months before the date you file the claim. Also, the Ministry of Labour can issue an order to recover vacation pay that came due in the 12 months before the date you file the claim.

Two Years

In some cases, an employee can file a claim up to two years after the employer violated certain rights of the employee, such as acting against the employee or threatening to act against the employee for:

- Asking the employer to comply with the ESA
- Asking questions about your rights under the ESA
- Filing a complaint under the ESA
- Exercising or trying to exercise your rights under the ESA
- Giving information to an employment standards officer
- Taking or planning to take a pregnancy, parental, personal emergency, family medical, or declared emergency leave
- Being eligible or being in a position to become eligible to take a pregnancy, parental, personal emergency, family medical, or declared emergency leave.
- Being subject to a garnishment order (that is, a court order to have money deducted directly from your wages to pay off a debt)
- Taking part in any proceedings under the ESA, or section 4 of the Retail Business Holidays Act
- Refusing to take a lie detector test
- Refusing Sunday work (for certain retail employees only).

The two-year limit for filing a claim also applies where an employer has violated non-monetary rights; for example, the employer didn't give proper meal breaks or failed to provide wage statements.

Possible results

To find out the maximum amounts of wages that can be recovered or whether it may be possible for you to get your job back, please read the Fact Sheet "How to File a Claim". You can get a copy of this Fact Sheet on the Ministry of Labour's website at www.labour.gov.on.ca/english/es/factsheets/fs_claim.html or call 416-326-7160 or 1-800-531-5551 to find the nearest place where you can pick one up.

Completing your claim form

The Ministry of Labour has Fact Sheets that may be able to help you. The following is a list of Fact Sheets currently available:

- Agricultural Workers
- Domestic Workers
- Personal Emergency Leave
- Family Medical Leave
- FAQs (Frequently Asked Questions)
- Homeworkers
- Hours of Work & Overtime
- How are You Covered by the ESA?
- How to File a Claim
- Minimum Wage
- Pregnancy Leave & Parental Leave
- Public Holidays
- Retail Workers
- Role of the Ministry of Labour
- Termination of Employment & Severance Pay
- Vacation
- What Young Workers Should Know

You can view these Fact Sheets on the Internet at http://www.labour.gov.on.ca/english/es/es_pubs.html or call 416-326-7160 or 1-800-531-5551 for the nearest place where you can pick them up.

Please use the following instructions as you complete each section of the claim form.

You must fill out all the areas marked with an asterisk (*) to help the Ministry of Labour investigate your claim as soon as possible. The information you provide will help Ministry staff to conduct an investigation of your claim.

Also, if you change your mailing address or telephone number, you must tell us or Ministry staff may not be able to contact you about your claim.

No personal contact information will be shared with your employer.

Use a pen to fill out the form. **PRINT** as clearly as possible.

Please read the section titled "Important! Please read the following before you complete this form section" and check off the box at the end of the section.

Section A - Information About You

A1. Are you covered by a collective agreement?

Did a union represent you while you were working for the employer that you are filing this claim against? You must put a check mark (✓) in either the "yes" or "no" box.

If your answer is "yes", you must contact your union representative for assistance. If your union cannot help, and you still wish to file a claim, you must write to the Ministry of Labour and get permission from the Director of Employment Standards before you can file this claim.

Write to: Ministry of Labour, Director of Employment Standards
Employment Practices Branch
400 University Avenue, 9th Floor
Toronto, ON M7A 1T7

A2. Previous Last Name (if your employer knows you by that name)

If the employer knows you by a different last name—for example, if you changed your last name after getting married—write that last name.

A3. Students Only: Date of Birth

Students need to provide this information so the Ministry of Labour can tell if you were eligible for the “student minimum wage” or the “general minimum wage”.

A4. Alternative Mailing Address

To help us serve you better, if you have another address and phone number where we can contact you, please write it here.

A5. Do you authorize anyone to act on your behalf?

You may wish to authorize someone else to act on your behalf and/or discuss your claim with us, such as a lawyer, parent, spouse, friend.

If you choose to authorize someone, please **PRINT** the person's name. Describe their relationship to you (for example "lawyer, parent, spouse, friend") and write down their phone number.

Section B - Information About the Employer Against Which You Are Filing This Claim

B1. Name of Employer

Please write the full name **of the employer** (for example, as it is written on your paycheque).

B2. If this employer operates under any other name(s), please provide these names, if known.

Some businesses use both a business name and a registered number. For example, everyone may know the company as "Jane's Flower Shop" but your paycheque may show the name of a numbered company, for example "123456 Ontario Ltd." If you know that this is the case, please write down both names.

B3. Address of the location where you work(ed)

Write the address of the place where you did your job.

B4. Address of the Employer (if different from where you worked)

For example, if you work(ed) for “ABC Drugstore” in Sudbury but the main office for “ABC Drugstores Ltd.” is in Ottawa, you would write the address of the main office in Ottawa.

B5. Name of your supervisor, if known

If you know the name and position of the person you reported to at work, please **PRINT** that information.

Section C - Your Work History with this Employer

C1. What was your job title and what kind of work did you do?

Write your job title and describe, in a few words, the kind of work you did for this employer.

For example, if your job title was “Building Superintendent” and your job was fixing and repairing things around the building, then you would write that your title was “Building Superintendent” and you “fixed and repaired things around the building”.

C2. Were your hours of work regular?

If your hours of work changed from day to day or from week to week, please put a check mark (✓) in the "No" box, and describe how your hours changed from day to day or week to week.

C3. Pay Period

Did your employer pay you every week, every two weeks, twice every month, once every month, or some other period?

C4. How were you paid?

How were your wages or salary calculated?

- Per hour: You were paid the same amount of money for each hour that you worked.
- Salary: You were usually paid the same amount of money for every pay period (for example, every week or every two weeks), even if the number of hours that you worked may have varied.
- Commission: You were paid a percentage of each sale that you made.
- Piecework: You were paid for each piece of work you completed. For example, by the number of pieces of material that you cut or number of pages typed.
- Other: Such as “hourly wage plus commission”. Please explain.

C5. Rate of pay before deduction

What was your regular pay before taxes, Canada Pension Plan (CPP), Employment Insurance, etc. were taken out of your pay? Do not include in this amount any overtime pay that you may also have earned.

C6. Date you started working for this employer

Enter the date when you started working for this employer. If you cannot remember the exact day, enter the month and year that you started working for this employer.

Note: Even if you began a period of training on the first day of work, you should count that day as your first day of work.

- **Are you still working for this employer?**

- Put a check mark (✓) in the “still working” box if you are still working for this employer
- Put a check mark (✓) in the “fired” box if you were terminated, “let go”, downsized, dismissed or discharged.
- Put a check mark (✓) in the “laid off” box if the employer suspended, cut back or stopped your employment without permanently firing or dismissing you. For example, when there is not enough work, an employer might temporarily “lay off” employees.
- If you put a check mark (✓) in the “other” box, please explain.

- **Did you receive notice of termination before the last day?**

Were you told **before** your last day on the job that you were going to be fired or let go?

- **Date notice of termination was received**

If you were told before your last day on the job, please state the date when you were told.

- **Was the notice written or verbal?**

Were you given this information in writing (written), or did your employer only inform you by speaking to you (verbal)?

C7. Have you ever stopped working for this employer and then started working for the same employer again?

If you stopped working for this employer and then started working for the same employer again, explain why you stopped working. Also, provide the dates when you stopped and started working.

Do **NOT** include any time you stopped working because of:

- public holidays;
- vacations;
- time spent on sick leave of absence;
- pregnancy and parental leave(s);
- family medical leave;
- personal emergency leave (if you are covered);
- declared emergency leave; or
- any other leave approved by your employer.

Section D - Details About Your Claim

Note: Before you fill out this section we encourage you to read the information available from the Ministry of Labour on employee and employer rights and responsibilities. This information is available on the Internet at http://www.labour.gov.on.ca/english/es/es_pubs.html.

You can get free **Fact Sheets** on most standards covered by the ESA. They are also available on the Internet at http://www.labour.gov.on.ca/english/es/es_pubs.html, or you can call the Employment Standards Information Centre at 416-326-7160, or our Toll Free line at 1-800-531-5551 from anywhere in Canada to find out where to get more free information.

Please fully complete this section as accurately as possible. All the information you provide will help the Employment Standards Officer in conducting an investigation of your claim.

All calculations you include here will be regarded by the officer as **estimates only** and as a guide to assist the officer in investigating your claim. If you cannot estimate the amount you believe is owed to you, leave the space blank.

D1. Please check all that apply.

Put a check mark (✓) in the box(s) that describe why you are filing this claim against your employer.

Unpaid Wages:

If you believe you are owed money for wages you earned during your regular hours of work (not including overtime or public holidays), put a check mark (✓) in this box.

From: Write down the date of the first day of work that you believe you were not paid the wages you had earned.

To: Write down the last date of the last day you worked but were not paid the wages you believe you had earned.

Estimated Amounts: Write down how much money you think you are still owed for this work.

Overtime:

If you believe you are owed money that you earned working overtime, put a check mark (✓) in this box.

From: Write down the date of the first day you worked overtime but were not paid some or all of the money you believe you earned.

To: Write down the date of the last day you worked overtime but were not paid some or all of the money that you believe you earned.

Estimated Amounts: Write down how much money you think you are still owed for this work.

Vacation/Vacation Pay:

If you believe you were denied time off work for vacation, and/or have not been paid for the vacation time you have earned, put a check mark (✓) in this box.

Vacation time: If you believe you were denied time off work for vacation, please write the number of vacation weeks or days that you believe you earned.

Vacation pay: If you believe you have not been paid for the vacation time you have earned, please write the amount of vacation pay that you believe you are owed.

Public Holiday/Public Holiday Pay:

If you believe you were denied a day off from work with pay for a public holiday, or you worked on a public holiday and were not properly paid for it, put a check mark (✓) in this box.

Estimated Amounts: Write down the amount of money that you think you are owed because your employer did not pay you properly for a public holiday.

Deductions from wages:

If you believe that your employer took money from your pay without your written permission or that should not have been taken, put a check mark (✓) in this box.

Estimated Amounts: Write down the amount of money that you believe was taken from your pay that should not have been taken.

Pregnancy/Parental/or Other Leave:

If you believe that you were denied your right to take unpaid time off work for pregnancy, parental, personal emergency, family medical or declared emergency leave, put a check mark (✓) in this box.

Also, if you believe that your employer acted against you or threatened to act against you for taking or planning to take unpaid time off for these reasons put a check mark (✓) in this box. (Also, please see "Reprisals", below.)

Minimum Wage:

If you believe that you were paid below the minimum wage, put a check mark (✓) in this box.

Minimum Wage Rate	February 1, 2004	February 1, 2005	February 1, 2006	February 1, 2007
General Minimum Wage (per hour)	\$7.15	\$7.45	\$7.75	\$8.00
Student Minimum Wage (per hour)	\$6.70	\$6.95	\$7.25	\$7.50
Liquor Servers Minimum Wage (per hour)	\$6.20	\$6.50	\$6.75	\$6.95

Minimum Wage Rate	February 1, 2004	February 1, 2005	February 1, 2006	February 1, 2007
Hunting and Fishing Guides Minimum Wage: rate for working less than five consecutive hours in a day	\$35.75	\$37.25	\$38.75	\$40.00
Hunting and Fishing Guides Minimum Wage: rate for working five or more hours in a day whether or not the hours are consecutive	\$71.50	\$74.50	\$77.50	\$80.00
Homeworkers Wage (110 per cent of the general minimum wage)	\$7.87 per hour	\$8.20 per hour	\$8.53 per hour	\$8.80 per hour

Estimated Amounts: Write down the amount of money that you think you are owed because you were paid less than the legal minimum wage.

Termination Pay:

If you were "let go", "discharged", "dismissed", "fired" or "permanently laid off" from your job, and you believe you should have received pay because you were not told far enough ahead of time or given any notice, put a check mark (✓) in this box.

Estimated Amounts: Write down the amount of money you believe you are owed because you were not told far enough in advance of being "let go", "discharged", "dismissed", "fired" or "permanently laid off" from your job.

Severance Pay:

If you believe you were entitled to receive severance pay but did not get it or did not get the correct amount, put a check mark (✓) in this box.

Estimated Amounts: Write down the amount you think you are owed for severance pay.

Equal Pay for Equal Work:

"Equal pay for equal work" means that if a man and a woman are doing the same or very similar jobs for the same employer, they must receive the same wage unless the difference is due to seniority, productivity, a merit system or another reason not related to gender. If you believe you were paid less for doing the same work because of your gender, put a check mark (✓) in this box.

Estimated Amounts: Write down the amount you think you are owed.

Bankrupt Employer:

If your employer went bankrupt and you believe your employer still owes you wages, including pay for overtime, vacation and/or termination and severance pay, put a check mark (✓) in this box.

Estimated Amounts: Write down the amount you think you are owed.

Continued employment with a new employer (successor employer):

If the place where you work changed owners or operators, and you believe the new employer has not given you credit for the time you worked with the old employer, put a check mark (✓) in this box.

Estimated Amounts: Write down the amount, if any, that you believe the new employer owes you for the time you worked with the old employer.

Continued employment with a new employer (Building Services)

If you worked for an employer who had a contract to provide building services (for example, cleaning, security, building management, parking lot, or food services for the building) and you either

- lost your job without getting severance and/or termination pay from the new building service provider, or
 - were offered a job by the new provider but didn't get the wages you used to get with the old employer, or
 - the new employer has not given you credit for the time you worked with the old employer,
- put a check mark (✓) in this box.

Estimated Amounts: Write down the amount you think you are owed in termination and/or severance pay and/or wages from the new building service provider.

Hours of Work/Eating Periods:

If you believe that your employer asks or expects you to work too many hours each day and/or each week, including too many hours without a meal break, put a check mark (✓) in this box. (The maximum number of hours most employees can be required to work is 8 each day, unless your regular work day is longer or you have signed an agreement to work longer hours and your employer has approval from the Ministry of Labour's Director of Employment Standards.)

Rest Periods (between shifts, daily, weekly, biweekly):

If you believe your employer is not allowing you meal breaks or enough hours free from work between shifts, between each workday, or either in each week, or each two-week period, put a check mark (✓) in this box.

Refusal to work Sundays or public holidays when working in retail business:

If you work for a business that sells goods or services to the public, and you believe you were not allowed the right to refuse to work on Sundays or public holidays, put a check mark (✓) in this box.

Lie Detector Test:

If you believe your employer directly or indirectly asked you to take a lie detector test, or made you take a lie detector test, put a check mark (✓) in this box. (Also, please see “Reprisals”, below.)

Reprisals:

Put a check mark (✓) in this box if you believe your employer acted against you or threatened to act against you for:

- Asking the employer to comply with the ESA
- Asking questions about your rights under the ESA
- Filing a claim under the ESA
- Exercising or trying to exercise your rights under the ESA
- Giving information to an employment standards officer
- Taking or planning to take a pregnancy, parental, personal emergency, family medical, or declared emergency leave.
- Being eligible or being in a position to become eligible to take a pregnancy, parental, personal emergency, family medical or declared emergency leave.
- Being subject to a garnishment order (that is, a court order to have money deducted directly from your wages to pay off a debt)
- Taking part in any proceedings under the ESA, or section 4 of the Retail Business Holidays Act
- Refusing to take a lie detector test
- Refusing Sunday work (for certain retail employees only).

Note: As explained earlier in this booklet, the employee has up to two years to file a claim with the Ministry of Labour if the employee believes he or she has been penalized, or the employer has threatened to penalize the employee for any of these reasons.

Other:

Put a check mark (✓) in this box if there is a reason why you are filing this claim that is not on this list. In a few words, please describe this reason.

Additional information:

If there is additional information that you think Ministry staff need to have in order to start processing your claim, please add the information in this space.

Section E – Applicant’s Certification

Be sure to:

- Read the declaration—make sure you understand and agree to what it says
- Sign and date this form if you understand and agree with the declaration.

The declaration asks you to confirm that you believe the information you provided is accurate. The declaration also asks you to agree to be contacted for your opinions on the service provided by the Ministry of Labour. This will help the Ministry to improve the quality of its service.

To Help Us Investigate Your Claim

After you have completed the claim form, you should drop it off at the nearest ServiceOntario Centre. For the nearest location to you, call the Employment Standards Information Centre 416-326-7160, our Toll Free line at 1-800-531-5551 from anywhere in Canada, or visit the Ministry’s website at www.labour.gov.on.ca/english/es/claim. You can also fax it to 1-888-252-4684 or mail it to:

Ministry of Labour
Provincial Claims Distribution Centre
70 Foster Drive, Suite 480
Roberta Bondar Place
Sault Ste. Marie ON P6A 6V4

When you file your claim, please provide the Ministry of Labour with photocopies (do not include originals) of as many of the following documents (if you have them) as possible:

- A copy of paycheques, including any "bounced" cheques
- A copy of pay stubs (the statement of deductions that is usually given with the paycheque), especially for the last 13 weeks of employment
- A copy of any records (daybooks, diaries, calendars, etc.) that you kept of the hours you worked
- A copy of any correspondence relating to your claim, for example
 - Any warning letters from your employer and/or any letters sent by you to your employer in an attempt to resolve your claim
 - Any letters you sent to your employer or copies of mail receipts, for example, registered mail receipt(s)
- A copy of any contract of employment or any written company policies (if available)
- A copy of any written agreements you had with your employer
- A copy of T4 slips covering the relevant period of employment (if available)
- Documents to support your leaves of absence, for example a medical certificate in the case of a pregnancy leave.

If you are no longer employed with this employer, please provide:

- A copy of your Record of Employment ("separation papers");

Note: If you have already given your Record of Employment to Human Resources Development Canada - Employment Insurance, contact them and ask them to provide you with a photocopy.

- ❑ A copy of the written notice of termination (if your employer informed you in writing that you were to be "let go," "discharged," "dismissed," "fired" or "permanently laid off" from your job).

What Happens After You File Your Claim

When the Ministry of Labour receives your completed claim form and any supporting documents, you will be contacted if more information is needed.

Within 14 days you should receive a letter telling you that we have received your claim. The letter will include:

- Your file number with the Ministry of Labour; and
- The address of the office that will handle your claim.

Note: Please keep the letter for your records.

An Employment Standards Officer of the Ministry of Labour will investigate your claim. This is usually done by contacting your employer and by inspecting both your employer's records and any records you may have kept (for example, record of hours worked, any letters from your employer). The officer may also interview you, your employer and other people.

The officer will make a decision, based on your employer's records, your records and the interviews.

You may have to attend a meeting conducted by the officer. If a meeting is required, you will receive a letter setting out the time, date and place of the meeting. Your employer may also be required to attend this meeting. You are welcome to bring along any documents that you think will support your case. You may also bring your representative, if you have one, to the meeting. The officer will ask you to explain what your concerns are, and ask your employer to explain his or her side as well.

After both parties have had an opportunity to present information, the officer will decide if the employer followed the ESA.

If the officer decides the ESA was not followed, the officer will tell you and your employer how the claim may be resolved under the ESA.

If your employer fails to resolve your claim, the officer may issue an Order or a Notice of Contravention against the employer.

If an employer disagrees with an order or notice, the employer can apply for a review to the Ontario Labour Relations Board. In most cases, **an employee can also ask for a review** of an order within 30 days of receiving a letter advising of the order or a review of a refusal to issue an order within 30 days of receiving a letter explaining why the Employment Standards Officer has refused to issue an order. You will get a copy of the officer's Order and/or Notice. Or, if the officer has found no violations of the Act, you will get a letter explaining the reason. If the employer disagrees with an Order or Notice, they can apply for a review to the Ontario Labour Relations Board. In most cases, an employee can also ask for a review of an order within 30 days of receiving the Order to Pay or a letter explaining why the Employment Standards Officer has refused to issue an Order.

Please note that there are strict time limits on the review process.

How to contact us

Call the Employment Standards Information Centre at 416-326-7160, our Toll Free line at 1-800-531-5551 from anywhere in Canada, or 1-866-567-8893 for Hearing Impaired TTY. **Please have a pen, paper and a list of your questions ready before you telephone us.**

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