

Employee Self Help Kit



Helping employees help themselves

This information is provided as a public service. Although we endeavour to ensure that the information is as current and accurate as possible, errors do occasionally occur. Therefore, we cannot guarantee the accuracy of the information. Readers should, where possible, verify the information before acting on it.

Helping employees help themselves

Do you have a problem with your current or former employer relating to unpaid wages, vacation pay, public holiday pay, overtime, minimum wage, termination or severance pay?

The Employment Standards Act, 2000 (ESA) contains rules about what most employees are entitled to be paid. Most employers in Ontario must follow these rules.

This Self Help Kit is provided by the Ministry of Labour to help you to resolve these problems on your own without having to file a claim. It will help you to figure out how much money you may be owed.

Using this Self Help Kit is NOT the same as filing a claim with the Ministry of Labour to have the matter investigated. For more information about filing a claim, call the Employment Standards Information Centre at 1-800-531-5551. For those with hearing difficulties, please dial 1-866-567-8893 (TTY). Alternatively, visit a ServiceOntario Government Information Centre, or the Ministry of Labour website at www.labour.gov.on.ca

If you have a problem with your employer relating to pay, we encourage you to try the Self Help Kit as your first step toward getting back any money your employer may owe you.

Using this Self Help Kit may provide a much faster result!

In this kit, you will find:

- Who Should Use the Self Help Kit?
- How to Use the Self Help Kit
- What if the Self Help Kit doesn't Work?
- Need More Help?
- Information for the Employer from the Ministry of Labour (cover letter)
- Request for Payment Form
- Worksheets
 - Unpaid Wages
 - Vacation Pay
 - Unauthorized Deductions
 - Overtime Pay
 - Public Holiday Pay
 - Minimum Wage
 - Termination Pay
 - Severance Pay

Who Should Use the Self Help Kit?

In order to use the Self Help Kit, you must:

- ❑ Be an employee and be covered by the ESA
- AND**
- ❑ Have a problem about pay that is covered by the ESA
- AND**
- ❑ Be within the applicable time limits.

NOTE: If you are a unionized employee, you should talk to your union representative first if you think your rights have been violated.

Before you begin, ask yourself the following questions to find out if you should use this Self Help Kit:

1) Am I covered by the ESA?

The ESA contains rules about what most employees are entitled to be paid. Most employers in Ontario must follow these rules. **You must be covered by the ESA to use this Self Help Kit.**

However, not every employee in Ontario is covered by the ESA, and there are exceptions and special rules for some employees in the ESA.

To find out if you are covered by the ESA or if special rules apply to you, call the Employment Standards Information Centre at 1-800-531-5551 or read the fact sheet “How are you covered by the ESA?” available from ServiceOntario Government Information Centres or online at www.labour.gov.on.ca.

2) Is my problem about pay covered by the ESA?

This Self Help Kit can help you with problems covered by the ESA relating to unpaid wages, vacation pay, public holiday pay, overtime, minimum wage, termination or severance pay. You should use this Self Help Kit if you:

- were not paid for the hours you worked
- were not paid overtime pay
- were not paid on time
- were paid less than minimum wage
- were not paid for a training period
- were called into work for less than three hours and were not paid for three hours at minimum wage or actual time worked at a higher wage, whichever amount is greater

- are paid on commission and made less than minimum wage before deductions in a pay period
- had money deducted from your pay cheque without your written permission
- were not paid for a public holiday, or not given time off with pay for a public holiday
- did not get an annual vacation or vacation pay
- were fired without notice or pay in lieu of notice
- worked for your employer for at least five years, were fired and did not receive severance pay (you may be eligible if you were employed by an employer who has a payroll in Ontario of at least \$2.5 million OR severed the employment of 50 or more employees in a six-month period because all or part of the business was permanently discontinued).

Other ESA problems

This Self Help Kit is **not** intended to help you if your employer violates any other provisions of the ESA such as those relating to meal breaks or hours of work.

This kit will also not help if your employer:

- Fired you and did not pay you termination or severance pay because the employer said you were guilty of wilful misconduct, wilful neglect of duty or disobedience
- Took any action against you such as discipline, threats or termination because you asked your employer to follow the rules set out in the ESA
- Did not allow you to take a leave you are entitled to under the ESA (pregnancy/parental, family medical or emergency leave) or punished you because you took or intended to take a leave
- Constructively dismissed you (caused you to quit your job because your employer made a significant change to your pay, duties, level of position, the location of your work or some other important part of your job) and did not pay termination or severance pay
- Required you to work on Sunday or a public holiday without your agreement if you are a retail business employee
- Is bankrupt, in receivership or has abandoned the business.

In these cases, please contact the Employment Standards Information Centre at 1-800-531-5551, or if you have hearing difficulties, please dial 1-866-567-8893 (TTY) to discuss your situation.

Other work-related problems

If your problem relates to:

Discrimination in the workplace, contact

Ontario Human Rights Commission 1-800-387-9080 or 416-326-9511

Workplace Safety Insurance benefits, contact

Office of the Worker Advisor 1-800-435-8980, or

Workplace Safety and Insurance Board 1-800-387-0750 or 416-344-1000.

Deductions for income tax, CPP, or EI, or your employer refuses to provide you with a Record of Employment (ROE or “separation papers”) or T4, contact

Human Resources and Skills Development Canada 1-800-206-7218.

3) Am I within the applicable time limits?

There are time limits for you to recover money owed to you under the ESA. Generally, an employee must file a claim with the Ministry of Labour:

- Within **six months** of wages becoming due, or
- Within **twelve months** of vacation pay becoming due.

REMEMBER: using this Self Help Kit is not the same thing as filing a claim. If you are close to the end of these limitation periods, do not use this Self Help Kit. Instead, you should file a claim immediately. For more information about how to file a claim, call the Employment Standards Information Centre at 1-800-531-5551, visit a ServiceOntario Government Information Centre or visit the Ministry of Labour website at www.labour.gov.on.ca.

If you are not close to the end of these limitation periods, we encourage you to try this Self Help Kit, before filing a claim, as your first step toward getting back any money your employer may owe you.

Wages becoming due

"Wages" include:

- pay for work that was done
- overtime pay
- public holiday pay
- termination pay
- severance pay
- vacation pay

Generally, wages (except vacation pay) become due on your regular payday. However, if your employment is terminated by your employer, all the money that your employer owes you has to be paid either within seven days after you were terminated or on your next regular pay day, whichever is later.

Normally employees can only recover wages that became due to them within six months of the date a claim is filed. If the employer has violated the same provision of the ESA more than once, the employee may be able to recover wages that became due within one year of the date of filing the claim.

Exceptions

The time limits are mandatory under the ESA. However, there are a few exceptions to these time limits. It may be possible to make a claim that would otherwise be outside the applicable time limit if, for example:

- An employee has been misled as to his or her entitlements under the ESA by his or her employer and for that reason delayed in filing his or her claim; and
- The employee took prompt steps to file a claim after he or she found out that what the employer said about the ESA entitlement was inaccurate.

For examples and information about time limits and filing a claim, call the Employment Standards Information Centre at 1-800-531-5551 or read the fact sheet “How to File a Claim” available at ServiceOntario Government Information Centres or online at www.labour.gov.on.ca.

How to Use the Self Help Kit

STEP 1

Complete the appropriate worksheet(s) for the amount you believe you are owed. Then fill in a Request for Payment Form.

You will find a worksheet for each employment standard (such as overtime, public holiday pay, or termination pay) at the back of this Self Help Kit. These worksheets will help you determine how much money you might be owed.

Complete the worksheet(s) you need based on what is owed to you (e.g. if you were not paid minimum wage, complete the minimum wage worksheet). Only fill out the worksheet(s) you need. Examples have been provided on the back of each worksheet to help you correctly fill it out.

After completing the worksheet(s), transfer the necessary figures and information to the **Request for Payment Form**, showing the total amount you are asking the employer to pay.

Fact sheets and brochures with more information about your rights are available at Government Information Centres and on the Ministry of Labour website at www.labour.gov.on.ca.

STEP 2

Include proof to show your employer.

Make photocopies of any document you think supports the fact that you are owed money under the ESA. Include these with your worksheet(s).

Examples include:

- Contract of Employment
- Record of Employment (“separation papers”)
- Schedules
- NSF (bounced) cheques returned by a bank
- Wage statements/pay stubs
- Personal records of hours worked
- Revenue Canada T4 slips
- Time cards

STEP 3

Attach the cover letter “Information for the Employer from the Ministry of Labour”, included in this Self Help Kit. Make a photocopy of the complete package and keep the copy for your records.

Your complete package should include:

- Request for Payment Form
- Completed worksheet(s)
- Cover page
- A copy of all supporting documents

Make sure you keep a copy of everything you send to your employer for your own records, in case you need to file a claim.

STEP 4

Send your completed Self Help Kit to your employer.

Send your complete package (completed worksheet(s), the Request for Payment Form, cover letter and supporting documents) to your employer by any of the following ways:

- Regular mail
- Fax
- Registered mail
- Personal delivery

Be sure to keep registered mail receipts or fax confirmation reports for your records.

What if the Self Help Kit doesn't work?

You can file a claim with the Ministry of Labour at any time (provided that the applicable time limits have not expired) to have your problem investigated by an employment standards officer.

We encourage you to try the Self Help Kit as a first step to recovering any money your employer may owe you. If you send the completed Self Help Kit to your employer and the problem is not resolved within **15 days**, you may file a claim with the Ministry of Labour.

For more information about how to file a claim, call the Employment Standards Information Centre at 1-800-531-5551, visit a ServiceOntario Government Information Centre or visit the Ministry of Labour website at www.labour.gov.on.ca to read the “How to File a Claim” fact sheet.

Need More Help?

The following resources are available to you if you are looking for more information on your employment standards rights or want to file a claim with the Ministry of Labour:

- **Employment Standards Information Centre: 1-800-531-5551**
 - Experienced staff can answer questions about employment standards and direct you to where you can find information and forms to file a claim with the Ministry of Labour.

- **Ministry of Labour website: www.labour.gov.on.ca**
 - You will find fact sheets and brochures with detailed information about employment standards. The Self Help Kit is also available online if you need additional copies of worksheets or forms. Information on how and where to file a claim, as well as official claim forms are also available on the website.

- **ServiceOntario Government Information Centres: Locations listed in blue pages of the phone book.**
 - You will find fact sheets and brochures with detailed information about employment standards. You can also get print copies of the Self Help Kit. ServiceOntario Government Information Centres can also provide you with official claim forms and a guide to filing a claim with the Ministry of Labour.

Information for the Employer from the Ministry of Labour

The Ministry of Labour Employment Standards Program encourages employers and employees to resolve their disputes over the payment of wages or other issues under the **Employment Standards Act, 2000 (ESA)**, without direct government involvement.

Your employee or former employee believes she/he has a problem under the ESA and, by using the Employee Self Help Kit, is attempting to resolve this dispute without Ministry of Labour intervention. The following attachments are included:

- Request for Payment Form
- Worksheet/s showing calculation of alleged amounts owing
- Supporting documentation (if available).

If you agree that you owe your former employee wages, please send him or her a cheque for the full amount, less statutory deductions and any deductions required by court order. If the problem relates to something other than wages (for example meal breaks or hours of work) then you must comply with the ESA and change your practices if you are not complying.

The employee has been advised that if the employee and employer are unable to resolve the employee's concerns within 15 days, a complaint may be filed with the Ministry of Labour. If a complaint is filed, a full investigation will be performed by an employment standards officer. In that case, your records may be audited and you may be required to attend a Fact Finding meeting at a Ministry of Labour district office.

If an employment standards officer finds that you have violated any section of the ESA by failing to pay wages, an Order to Pay Wages may be issued, with a 10% or \$100 administrative fee (whichever is greater) added to the total assessed amount. If you are found to have engaged in certain non-monetary violations such as failure to provide proper wage statements, failure to give meal breaks or exceeding hours of work standards, other enforcement action can be taken.

Contravention of any provision of the ESA is an offence, and offenders may be prosecuted.

The ESA prohibits a reprisal against any employee who asks the employer to comply with the ESA and regulations, makes inquiries about his or her rights under the ESA, or files a complaint with the Ministry of Labour.

If you have any questions about your obligations under the ESA, please contact our Employment Standards Information Centre at 1-800-531-5551 or visit the Ministry of Labour website at www.labour.gov.on.ca for detailed fact sheets and access to the ESA.

Request For Payment Form

EMPLOYER INFORMATION

EMPLOYEE INFORMATION

Company: _____

Name: _____

Address: _____

Address: _____

Postal Code: _____

Postal Code: _____

Immediate Supervisor: _____

Telephone Number: _____

Dear _____;

I believe that I am entitled to the following unpaid amounts under the Employment Standards Act, 2000 (ESA). Please see attached worksheets for details and calculations.

- | | |
|----------------------------|----------|
| 1) Unpaid Wages | \$ _____ |
| 2) Vacation Pay | \$ _____ |
| 3) Unauthorized Deductions | \$ _____ |
| 4) Overtime Pay | \$ _____ |
| 5) Public Holiday Pay | \$ _____ |
| 6) Minimum Wage | \$ _____ |
| 7) Termination Pay | \$ _____ |
| 8) Severance Pay | \$ _____ |

TOTAL (Gross) \$ _____

Please send me the total amount shown, less statutory deductions and any deductions required by court order. If you disagree with my calculation, please contact me at the telephone number given above between the hours of _____ and _____.

If we cannot resolve this matter within 15 calendar days, I may file a claim with the Ministry of Labour.

For more information about the ESA, please contact the Ministry of Labour Employment Standards Information Centre at 1-800-531-5551 or visit the Ministry of Labour website at www.labour.gov.on.ca.

Sincerely,

Signature of Employee

Date

Unpaid Wages Worksheet

Use this worksheet to calculate the amount of pay your employer may owe you if you weren't paid for work you performed. Please copy and attach as many worksheets as you need to support your request.

CALCULATING WAGES OWED

| Date work was performed Month / Day / Year (e.g. June 1, 2005) | Time started – Time finished (e.g. 8:30 am – 4:30 pm) | Hours worked (subtract paid or unpaid eating periods and unpaid breaks)* |
|--|--|---|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| TOTAL HOURS ACTUALLY WORKED: | | |

* Depending on the arrangement with your employer, you may be entitled to be paid for breaks. Eating periods do not have to be paid, unless the employer agreed that they would be paid. Breaks other than eating periods only count towards hours worked if you are required to stay at your place of work during the breaks. Otherwise, such breaks do not have to be paid unless the employer agreed that they would be paid.

| Total hours actually worked | Regular wage rate | Total amount unpaid wages |
|--|--------------------------------------|---------------------------|
| | X \$ /hour | \$ |
| ADD 4% Vacation Pay (x 0.04) if you are no longer employed by the employer or if you are paid vacation pay on each pay cheque: | | \$ |
| TOTAL AMOUNT OWED: | | \$ |

EXAMPLE

An employee works regular six hour shifts (including a 30 minute unpaid eating break) Monday to Friday and earns \$8.00/hour. Her employer asks her to come in to work an extra Saturday shift on April 9, April 23, May 14 and June 11, 2005.

The employee is paid for her usual hours, but is not paid for the Saturday shifts. The employee is paid her vacation pay (4% on her gross wages) on each paycheck.

The employer owes the employee 5.5 hours of pay per shift, or 22 hours in total. The employee's unpaid wages would total \$176.00.

SAMPLE CALCULATION BASED ON EXAMPLE ABOVE

| Date work was performed Month / Day / Year (e.g. June 1, 2005) | Time started – Time finished (e.g. 8:30 am – 4:30 pm) | Hours worked (subtract paid or unpaid eating periods and unpaid breaks)* |
|--|---|--|
| <i>April 9, 2005</i> | <i>10:00AM – 4:00PM</i> | 5.5 |
| <i>April 23, 2005</i> | <i>10:00AM – 4:00PM</i> | 5.5 |
| <i>May 14, 2005</i> | <i>10:00AM – 4:00PM</i> | 5.5 |
| <i>June 11, 2005</i> | <i>10:00AM – 4:00PM</i> | 5.5 |
| TOTAL HOURS ACTUALLY WORKED: | | 22 |

| Total hours actually worked | Regular wage rate | Total amount unpaid wages |
|--|--------------------------|----------------------------------|
| 22 | X \$ 8.00 /hour | \$ 176.00 |
| ADD 4% Vacation Pay (x 0.04) if you are no longer employed by the employer or if you are paid vacation pay on each pay cheque: | | \$ 7.04 |
| TOTAL AMOUNT OWED: | | \$ 183.04 |

Vacation Pay Worksheet

Use this worksheet to calculate the amount of vacation pay your employer may owe you. Please copy and attach as many worksheets as you need to support your request.

Most employees covered by the ESA are entitled to a minimum of two weeks of vacation time and 4% of their total gross wages* as vacation pay for every year that they work. Vacation pay must be paid before the employee takes the vacation time, subject to certain exceptions:

- If the employee and the employer agree in writing it may be paid on each pay day, or
- If the employee is paid by direct deposit or the employee does not take vacation in complete weeks, it may be paid on the pay day for the pay period in which the vacation falls, or
- If the employer and employee agree in writing, it may be paid at any other time set out in their agreement.

If an employee quits or his or her employment is terminated before he or she is able to take the vacation time, the employee must be paid 4% of the total gross wages earned up to that time, less any vacation pay already paid.

*“Gross wages” include regular earned wages before deductions, as well as commissions, bonuses and gifts that are non-discretionary or that are related to hours of work, production or efficiency, allowances for room and board, overtime pay, public holiday pay, and termination pay.

If an employee has worked for less than 12 months before employment ended, and the employer did not pay vacation pay in every pay period, then the employee is owed 4% of his or her total gross wages at the end of employment.

For more information, call the Employment Standards Information Centre at 1-800-531-5551 or visit the Ministry of Labour website at www.labour.gov.on.ca to read the “Vacation” fact sheet.

CALCULATING VACATION PAY OWED

| Period for which vacation pay claimed Month / Day / Year (e.g. January 1, 2005 - December 31, 2005) | Gross wages for period | x 0.04 (4%, or a higher rate if stated in contract) | Minus vacation pay already paid for the period | Vacation pay owing |
|---|------------------------|--|--|--------------------|
| | \$ | \$ | \$ | \$ |
| | \$ | \$ | \$ | \$ |
| TOTAL OWED: | | | | \$ |

EXAMPLE

An employee started employment on January 1, 2004 at a salary of \$500.00 per week, earning a total of \$26,000.00 in 2004. He earned two weeks of vacation time for 2004 plus 4% vacation pay on the total gross wages, which equals \$1,040.00.

If the employee takes 1 week of vacation with half of the vacation pay in February 2005 and quits on March 31, 2005 the employer still owes the employee \$520.00 vacation pay earned in 2004, plus 4% of total gross wages earned between January 1 and March 31, 2005.

SAMPLE CALCULATION BASED ON EXAMPLE ABOVE

| Period for which vacation pay claimed Month / Day / Year (e.g. January 1, 2005 - December 31, 2005) | Gross wages for period | x 0.04 (4%, or a higher rate if stated in contract) | Minus vacation pay already paid for the period | Vacation pay owing |
|--|---|--|---|-------------------------------|
| <i>January 1 – December 31, 2004</i> | <i>\$26,000.00</i> | <i>\$1,040.00</i> | <i>\$520.00</i> | <i>\$520.00</i> |
| <i>January 1 – March 31, 2005</i> | <i>\$6,000.00 (12 weeks' regular pay - January 1 to March 31 is 13 weeks, but one week was spent on vacation)</i> | <i>\$240.00</i> | <i>0</i> | <i>\$240.00</i> |
| TOTAL OWED: | | | | \$760.00 |

Unauthorized Deductions Worksheet

Use this worksheet to calculate the amount of pay your employer may owe you, if your employer made deductions from your wages without your written permission. Please copy and attach as many worksheets as you need to support your request.

If an employee gives written permission for the employer to make deductions from wages, it is generally not a violation of the ESA. Written permission must refer to a specific amount to be deducted or state the formula for how the specific amount should be calculated.

Employers **cannot** deduct wages for faulty work, cash shortages, lost or stolen property (when a person other than the employee had access to the cash or property), even with written authorization from the employee.

For more information, call the Employment Standards Information Centre at 1-800-531-5551 or visit the Ministry of Labour website at www.labour.gov.on.ca to read the “Minimum Wage” fact sheet.

CALCULATING UNAUTHORIZED DEDUCTIONS

| Pay period Starting and ending Day / Month / Year (e.g. June 13, 2005 – June 19, 2005) | Gross amount earned | Why did the employer make the deduction? (if known) | Amount of unauthorized deduction |
|--|------------------------|--|--|
| | \$ | | \$ |
| | \$ | | \$ |
| | \$ | | \$ |
| | \$ | | \$ |
| | \$ | | \$ |
| | \$ | | \$ |
| | \$ | | \$ |
| | \$ | | \$ |
| | \$ | | \$ |
| TOTAL OWED: | | | \$ |

EXAMPLE 1

An employee earns \$450.00 per week, and accidentally damages a piece of equipment while working. The cost of the repair is \$250.00 and the employer deducts this amount from the employee's pay.

The employer owes the employee \$250.00 in unpaid wages.

SAMPLE CALCULATION BASED ON EXAMPLE 1

| Pay period Starting and ending Day / Month / Year (e.g. June 13, 2005 – June 19, 2005) | Gross amount earned | Why did the employer make the deduction? (if known) | Amount of unauthorized deduction |
|---|--------------------------------|--|---|
| <i>May 2 – 8, 2005</i> | <i>\$ 450.00</i> | <i>Damage to truck</i> | <i>\$ 250.00</i> |
| TOTAL OWED: | | | <i>\$ 250.00</i> |

EXAMPLE 2

An employee earns \$8.00/hour and works a 37.5-hour week. The employer provides a new uniform to the employee and then deducts \$10.00 per week for 5 weeks from the employee's pay cheque to pay for the uniform.

There is no written agreement between the employee and the employer to do this.

SAMPLE CALCULATION BASED ON EXAMPLE 2

| Pay period Starting and ending Day / Month / Year (e.g. June 13, 2005 – June 19, 2005) | Gross amount earned | Why did the employer make the deduction? (if known) | Amount of unauthorized deduction |
|---|--------------------------------------|--|---|
| <i>Mar.28 – Apr. 3, 2005</i> | <i>\$ 8.00x 37.5 = \$300.00</i> | <i>Uniform</i> | <i>\$ 10.00</i> |
| <i>Apr. 4 – Apr.10, 2005</i> | <i>\$ 8.00 x 37.5 = \$300.00</i> | <i>Uniform</i> | <i>\$ 10.00</i> |
| <i>Apr. 11 – Apr.17, 2005</i> | <i>\$ 8.00 x 37.5 = \$300.00</i> | <i>Uniform</i> | <i>\$ 10.00</i> |
| <i>Apr. 18 – Apr.24, 2005</i> | <i>\$ 8.00 x 37.5 = \$281.25</i> | <i>Uniform</i> | <i>\$ 10.00</i> |
| <i>Apr. 25 – May 1, 2005</i> | <i>\$ 8.00 x 37.5 = \$300.00</i> | <i>Uniform</i> | <i>\$ 10.00</i> |
| TOTAL OWED: | | | <i>\$ 50.00</i> |

Overtime Pay Worksheet

Use this worksheet to calculate the amount of overtime pay your employer may owe you. Please copy and attach as many worksheets as you need to support your request.

Most employees must be paid overtime pay, at a rate of *at least* 1½ times the regular rate of pay, for hours worked in excess of 44 hours per week. However, in some cases, overtime pay is paid after 50, 55, or 60 hours per week. Overtime pay rules may also be different if you signed an overtime averaging agreement with your employer.

For more information, call the Employment Standards Information Centre at 1-800-531-5551 or visit the Ministry of Labour website at www.labour.gov.on.ca to read the “Hours of Work & Overtime” fact sheet.

CALCULATING OVERTIME PAY OWED

| Dates of weeks work performed (dd/mm/yyyy) Day 1 = start of work week Day 7 = end of work week | Number of hours worked each day (subtract paid or unpaid eating periods and unpaid breaks)* | Number of hours in work week | Hours worked in excess of 44 (or the appropriate threshold) = Overtime hours |
|---|--|------------------------------|---|
| Day 1: Day 2: Day 3: Day 4: Day 5: Day 6: Day 7: | | | |
| Day 1: Day 2: Day 3: Day 4: Day 5: Day 6: Day 7: | | | |

* Depending on the arrangement with your employer, you may be entitled to be paid for breaks. Eating periods do not have to be paid, unless the employer agreed that they would be paid. Breaks other than eating periods only count towards hours worked if you are required to stay at your place of work during the breaks. Otherwise, such breaks do not have to be paid unless the employer agreed that they would be paid.

| Overtime hours (from above) | Regular wage rate | Overtime rate per hour: (Regular wage rate x 1.5) | Total number of overtime hours x overtime rate | Minus any wages paid for overtime hours during the same week |
|--|-------------------|--|--|--|
| | \$ /hr | \$ /hr | | \$ |
| Overtime Pay Earned: | | | | \$ |
| Plus 4% Vacation Pay (x 0.04) (ONLY if you are no longer employed by your employer or you receive vacation pay on each pay cheque): | | | | \$ x 0.04 = |
| TOTAL OWED: | | | | \$ |

EXAMPLE

A salaried employee was not paid overtime pay after working more than 44 hours in one week:

The employee’s salary is \$500.00/week. The work week runs from Sunday to Saturday. The regular work week is 44 hours and during the week of May 1 to May 7, 2005 the employee worked the following hours:

| | |
|---------------------|-----------|
| Sunday | 0 |
| Monday | 8 |
| Tuesday | 12 |
| Wednesday | 9 |
| Thursday | 8 |
| Friday | 8 |
| Saturday | 8 |
| Weekly Total | 53 |

Overtime pay is 1 ½ times the regular wage, and is payable for any hours worked in excess of 44. The employee was paid for only 44 hours at the regular rate.

- 1) Overtime hours for this employee = 53 hours – 44 hours = 9 Overtime Hours
- 2) Employee’s “hourly rate” = \$500.00 divided by 44 = \$11.36 / hour
- 3) Overtime rate = 1 ½ x \$11.36/hr = \$17.04/hour
- 4) Overtime pay = 9 hours x \$17.04 = \$153.36
- 5) Plus 4% vacation pay (153.36 x 0.04) = \$153.36 + \$6.13 = \$159.49

SAMPLE CALCULATION BASED ON EXAMPLE ABOVE

| Dates of weeks work performed (dd/mm/yyyy) Day 1 = start of work week Day 7 = end of work week | Number of hours worked each day (subtract paid or unpaid eating periods and unpaid breaks)* | Number of hours in work week | Hours worked in excess of 44 (or the appropriate threshold) = Overtime hours |
|--|---|------------------------------|--|
| Day 1: 01/05/2005 (Sunday) | 0 | 53 | 9 |
| Day 2: 02/05/2005 (Monday) | 8 | | |
| Day 3: 03/05/2005 (Tuesday) | 12 | | |
| Day 4: 04/05/2005 (Wednesday) | 9 | | |
| Day 5: 05/05/2005 (Thursday) | 8 | | |
| Day 6: 06/05/2005 (Friday) | 8 | | |
| Day 7: 07/05/2005 (Saturday) | 8 | | |

| Overtime hours (from above) | Regular wage rate | Overtime rate per hour: (Regular wage rate x 1.5) | Total number of overtime hours x overtime rate | Minus any wages paid for overtime hours during the same week |
|-----------------------------|-------------------|---|--|--|
| 9 | \$ 11.36 /hr | \$ 17.04 /hr | 9 x \$17.04 = \$153.36 | 0 |
| | | | Overtime pay earned: | \$153.36 |
| | | | Plus 4% vacation pay (x 0.04) | \$153.36 x 0.04 = \$6.13 |
| TOTAL OWED: | | | | \$159.49 |

Public Holiday Pay Worksheet

Use this worksheet to calculate the amount of public holiday pay your employer may owe you. Please copy and attach as many worksheets as you need to support your request.

Employees who qualify are entitled to take public holidays off work and be paid public holiday pay. Public holiday pay is calculated by adding all of an employee's regular wages earned, plus all of the vacation pay that was payable in the four work weeks before the work week with the public holiday, divided by 20.

NOTE: If you agreed with your employer to work on a public holiday in exchange for another day off with public holiday pay, and you never received public holiday pay, you may also use the chart below to calculate what you may be owed.

For more information, call the Employment Standards Information Centre at 1-800-531-5551 or visit the Ministry of Labour website at www.labour.gov.on.ca to read the "Public Holidays" fact sheet.

CALCULATING PUBLIC HOLIDAY PAY OWED

| Public holiday date Month/Day/Year (e.g. Thanksgiving, October 10, 2005) | Worked last regularly scheduled shift before AND first regularly scheduled shift after the public holiday?* | Regular wages earned in four work weeks preceding week with public holiday, divided by 20 | ADD 4%** vacation pay if you are on paid vacation or are paid vacation pay on each pay cheque | Public Holiday Pay owed |
|--|---|---|---|-------------------------|
| | YES / NO | \$ | | \$ |
| | YES / NO | \$ | | \$ |
| | YES / NO | \$ | | \$ |
| | YES / NO | \$ | | \$ |
| Total of all Public Holiday Pay owed: | | | | \$ |
| ADD 4%** (Public Holiday Pay x 0.04) vacation pay IF you are no longer employed by your employer OR if vacation pay is paid on each pay cheque: | | | | \$ |
| TOTAL OWED: | | | | \$ |

* Unless you failed to work your full regularly scheduled shift for a valid reason (e.g. illness, emergency).

** Add 4% of your total gross wages, or if your employment contract provides a higher percentage, apply the higher percentage.

EXAMPLE

Good Friday, a public holiday, fell on Friday, March 25, 2005. An employee who normally works Monday to Friday worked ALL of her entire regular shift on Thursday March 24 AND Monday March 28. The employer’s regular work week runs from Sunday to Saturday.

The employee earns \$400.00/week, and her vacation pay is paid to her when she takes her annual vacation (not on each individual paycheck).

Public holiday pay equals the total amount of regular wages earned in the four work weeks before the public holiday (including vacation pay if paid in each pay period), divided by 20.

So, if the employee earned \$400.00 per week in the four weeks before the public holiday (February 21 to March 18), and was not on vacation, so received no vacation pay, the total amount earned in the four weeks before the holiday would be \$1600.00. Public holiday pay would be \$1,600.00 divided by 20, or \$80.00.

If the employee was no longer employed by her employer, then 4% vacation pay on the public holiday pay would be added for a total of \$83.20.

| | | | | | | |
|-----|-----|-----|-----|-----|---------|-----|
| SUN | MON | TUE | WED | THU | FRI | SAT |
| 20 | 21 | 22 | 23 | 24 | 25 | 26 |
| 27 | 28 | 1 | 2 | 3 | 4 | 5 |
| 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| 20 | 21 | 22 | 23 | 24 | 25 - PH | 26 |
| 27 | 28 | 29 | 30 | 31 | 1 | 2 |

SAMPLE CALCULATION BASED ON EXAMPLE ABOVE

| Public holiday date Month/Day/Year (e.g. Thanksgiving, October 10, 2005) | Worked last regularly scheduled shift before AND first regularly scheduled shift after the public holiday?* | Regular wages earned in four work weeks preceding week with public holiday, divided by 20 | ADD 4%** vacation pay if you are on paid vacation or are paid vacation pay on each pay cheque | Public Holiday Pay owed |
|--|--|--|--|--------------------------------|
| <i>March 25, 2005 Good Friday</i> | <i>YES</i> | <i>\$1,600.00 / 20 = \$80.00</i> | <i>No vacation pay was payable in this period</i> | <i>\$80.00</i> |
| Total of all Public Holiday Pay owed: | | | | <i>\$80.00</i> |
| ADD 4%** (Public Holiday Pay x 0.04) vacation pay IF you are no longer employed by your employer OR if vacation pay is paid on each pay cheque: (The employee in the example above is still employed by her employer) | | | | <i>N/A</i> |
| TOTAL OWED: | | | | <i>\$80.00</i> |

Minimum Wage Worksheet

Use this worksheet to calculate the amount of pay your employer may owe you if you were paid less than minimum wage for all the hours that you worked in a pay period. Please copy and attach as many worksheets as you need to support your request.

Minimum wage is the lowest rate an employer can pay an employee. Most employees are entitled to be paid at least minimum wage. Refer to the chart on the back of this page for the current minimum wage rate.

For more information, call the Employment Standards Information Centre at 1-800-531-5551 or visit the Ministry of Labour website at www.labour.gov.on.ca to read the “Minimum Wage” fact sheet.

CALCULATING WAGES OWED

| Date of pay period* Month / Day / Year Starting _____ and Ending _____ | Hours worked (subtract paid or unpaid eating periods and unpaid breaks)** | Minimum wage rate (see next page) | Hours of work x minimum wage rate | Minus wages already paid for this pay period | Wages owed |
|---|--|--------------------------------------|-----------------------------------|--|------------|
| | | \$ | \$ | \$ | \$ |
| | | \$ | \$ | \$ | \$ |
| | | \$ | \$ | \$ | \$ |
| | | \$ | \$ | \$ | \$ |
| | | \$ | \$ | \$ | \$ |
| | | \$ | \$ | \$ | \$ |
| | | \$ | \$ | \$ | \$ |
| SUBTOTAL OF WAGES OWED: | | | | | \$ |
| PLUS 4% VACATION PAY (SUBTOTAL x 0.04) (ADD if you are no longer employed by the employer or if you receive vacation pay on each pay cheque): | | | | | \$ |
| TOTAL OWED: | | | | | \$ |

- * Minimum wage calculations are based on pay periods, which may be weekly, etc.
- ** Depending on the arrangement with your employer, you may be entitled to be paid for breaks. Eating periods do not have to be paid, unless the employer agreed that they would be paid. Breaks other than eating periods only count towards hours worked if you are required to stay at your place of work during the breaks. Otherwise, such breaks do not have to be paid unless the employer agreed that they would be paid.

MINIMUM WAGE RATE

| Minimum Wage Rate | February 1, 2005 | February 1, 2006 | February 1, 2007 |
|---|------------------|------------------|------------------|
| General Minimum Wage | \$7.45 per hour | \$7.75 per hour | \$8.00 per hour |
| Student Minimum Wage (Students under 18 working not more than 28 hours per week or working during a school holiday) | \$6.95 per hour | \$7.25 per hour | \$7.50 per hour |

Note: The minimum wage rate is different for liquor servers, homeworkers, and hunting and fishing guides.

EXAMPLE

An employee works Monday to Friday and is paid \$250.00/week, and 4% vacation pay is paid on each pay cheque. The employee works 40 hours per week with one 30-minute lunch break (completely free from work) each day, therefore the total number of hours required to be paid at least the minimum wage are 37.5. The hours were worked in March of 2006.

$37.5 \text{ hours} \times \$7.75/\text{hour} = \$290.63$, therefore the employee is owed \$40.63 in unpaid wages.

If the employee worked a 42.5-hour week with a 30-minute lunch break each day, the employee is required to be paid for 40 hours at the rate of \$7.75.

$40 \text{ hours} \times \$7.75/\text{hour} = \$310.00$, therefore the employee is owed \$60.00 in unpaid wages.

SAMPLE CALCULATION BASED ON EXAMPLE ABOVE

| Date of pay period* Month / Day / Year Starting _____ and Ending _____ | Hours worked (subtract paid or unpaid eating periods and unpaid breaks)** | Minimum wage rate (see next page) | Hours of work x minimum wage rate | Minus wages already paid for this pay period | Wages owed |
|--|--|--------------------------------------|-----------------------------------|--|------------|
| March 6– 12, 2006 | 37.5 | \$7.75 | $\$7.75 \times 37.5 = \290.63 | \$ 250.00 | \$40.63 |
| March 13– 19, 2006 | 37.5 | \$7.75 | $\$7.75 \times 37.5 = \290.63 | \$ 250.00 | \$40.63 |
| March 20– 26, 2006 | 40 | \$7.75 | $\$7.75 \times 40 = \310.00 | \$ 250.00 | \$60.00 |
| SUBTOTAL OF WAGES OWED: | | | | | \$ 141.26 |
| PLUS 4% VACATION PAY (SUBTOTAL x 0.04) : | | | | | \$ 5.65 |
| TOTAL OWED: | | | | | \$ 146.91 |

Termination Pay Worksheet

Use this worksheet to calculate the amount of termination pay your employer may owe you.

After working for an employer continuously for three months, most employees must receive advance notice in writing and/or termination pay when their employer ends their employment. The amount of notice depends on how long the employee has worked for the same employer (see chart).

| Length of Employment: | Notice Required |
|-------------------------------|-----------------|
| Less than 3 months | None |
| 3 months but less than 1 year | 1 week |
| 1 year but less than 3 years | 2 weeks |
| 3 years but less than 4 years | 3 weeks |
| 4 years but less than 5 years | 4 weeks |
| 5 years but less than 6 years | 5 weeks |
| 6 years but less than 7 years | 6 weeks |
| 7 years but less than 8 years | 7 weeks |
| 8 years or more | 8 weeks |

For more information, call the Employment Standards Information Centre at 1-800-531-5551 or visit the Ministry of Labour website at www.labour.gov.on.ca to read the “**Termination of Employment and Severance Pay**” fact sheet.

CALCULATING TERMINATION PAY OWED

“Regular wages” means wages other than overtime pay, public holiday pay, premium pay, vacation pay, termination pay and severance pay. If the amount of regular wages you were paid did not change every week, this amount is your “regular weekly wage” – enter the amount in box “B” on the table below.

| Dates of 12 weeks before termination Month/Day/Year (e.g. May 1/05) starting _____ and ending _____ : | Regular wages earned during week |
|---|----------------------------------|
| 1) | |
| 2) | |
| 3) | |
| 4) | |
| 5) | |
| 6) | |
| 7) | |
| 8) | |
| 9) | |
| 10) | |
| 11) | |
| 12) | |
| (A) Total regular wages earned during 12 weeks before termination: | \$ |
| (B) Regular weekly wage, or if you do not have a regular weekly wage: Total regular wages (A) divided by number of weeks actually worked in the last 12 weeks before termination | \$ |
| (C) Number of weeks of notice due (see chart above): | |
| (D) Number of weeks of notice (C)x regular weekly wage (B): | |
| (E) Plus 4% vacation pay (total amount (D) x 0.04): | |
| TOTAL OWED: | \$ |

EXAMPLE

An employee who has been employed by an employer for more than four years but less than five is terminated without notice.

Pay in lieu of notice of termination is calculated by averaging the employee's regular weekly wages (i.e. not including overtime, public holiday pay, vacation pay, etc.) over the weeks in which he or she worked in the 12 weeks before termination.

The employee's hourly wage was \$10.00/hour in the last 12 weeks before his employment was terminated. He does not work the same number of hours every week but the work week runs from Sunday to Saturday. The date of termination is October 31, 2005.

Because the employee was employed for more than four years but less than five, the entitlement is to four weeks of notice or pay in lieu of notice. Termination pay would equal four weeks x \$400.00, or \$1,600.00.

SAMPLE CALCULATION BASED ON EXAMPLE ABOVE

| Dates of 12 weeks before termination Starting Aug.7 and ending Oct. 29/05: | Regular wages earned during week Note: "OT" = overtime "PH" = public holiday |
|---|---|
| 1) August 7 – August 13 | <i>Worked 44 hours: \$440.00</i> |
| 2) August 14 – August 20 | <i>Worked 48 hours: 44 x \$10.00 = \$440.00 (OT not included)</i> |
| 3) August 21 – August 27 | <i>Worked 40 hours: \$400.00</i> |
| 4) August 28 – September 3 | <i>Worked 40 hours: \$400.00</i> |
| 5) September 4 – September 10 | <i>Worked 32 hours: \$320.00 (PH pay Sept. 5 not included)</i> |
| 6) September 11 – September 17 | <i>Worked 40 hours: \$400.00</i> |
| 7) September 18 – September 24 | <i>Worked 40 hours: \$400.00</i> |
| 8) September 25 – October 1 | <i>On Vacation (Vacation Pay not included)</i> |
| 9) October 2- October 8 | <i>On Vacation (Vacation Pay not included)</i> |
| 10) October 9- October 15 | <i>Worked 32 hours: \$320.00 (PH pay Oct. 10 not included)</i> |
| 11) October 16- October 22 | <i>Worked 44 hours: \$440.00</i> |
| 12) October 23- October 29 | <i>Worked 44 hours: \$440.00</i> |
| (A) Total regular wages earned during 12 weeks before termination: | \$4,000.00 |
| (B) Total regular wages divided by number of actual weeks worked in the last 12 weeks before termination | \$4,000.00 DIVIDED by 10 (weeks on vacation are not included in the calculation of the average) = \$400.00 |
| (C) Number of weeks of notice due: | 4 |
| (D) Number of weeks of notice x regular weekly wage: | 4 x \$400.00 = \$1,600.00 |
| (E) Plus 4% vacation pay (total amount x 0.04): | \$1,600.00 x 0.04 = \$64.00 |
| TOTAL OWED: | \$1,664.00 |

Severance Pay Worksheet

Use this worksheet to calculate the amount of severance pay your employer may owe you. Employees who are covered by the ESA and who have at least five years' employment with their employer are entitled to severance pay when their employment is severed, if

- The employer has a payroll of more than \$2.5 million, **OR**
- The employee's employment has been severed due to a permanent discontinuance of all or part of the employer's business and the employee is one of 50 or more employees whose employment is being terminated within a six-month period.

For more information, call the Employment Standards Information Centre at 1-800-531-5551 or visit the Ministry of Labour website at www.labour.gov.on.ca to read the "**Termination of Employment and Severance Pay**" fact sheet.

CALCULATING SEVERANCE PAY OWED

NOTE: "Regular wages" means wages other than overtime pay, public holiday pay, premium pay, vacation pay, termination pay and severance pay. If the amount of regular wages you were paid did not change each week, this amount is your "regular weekly wage" –enter the amount in box "B" on the table below.

| Dates of 12 weeks before severance Month/Day/Year, (e.g. May 1/05) starting _____ and ending _____: | Regular wages earned during week |
|---|--|
| 1) | |
| 2) | |
| 3) | |
| 4) | |
| 5) | |
| 6) | |
| 7) | |
| 8) | |
| 9) | |
| 10) | |
| 11) | |
| 12) | |
| (A) Total regular wages earned during 12 weeks before severance: | \$ |
| (B) Regular weekly wage, or if you do not have a regular weekly wage: Total regular wages (A) divided by number of weeks actually worked in the last 12 weeks before severance | \$ |
| (C) Number of completed years of employment | |
| (D) Number of completed months of employment divided by 12 for a year that is not completed | |
| (E) Number of weeks of severance pay due (C) + (D) = | |
| (F) Number of weeks of severance pay due (E) X regular weekly wage (B): | \$ |
| TOTAL OWED: | \$ |

EXAMPLE

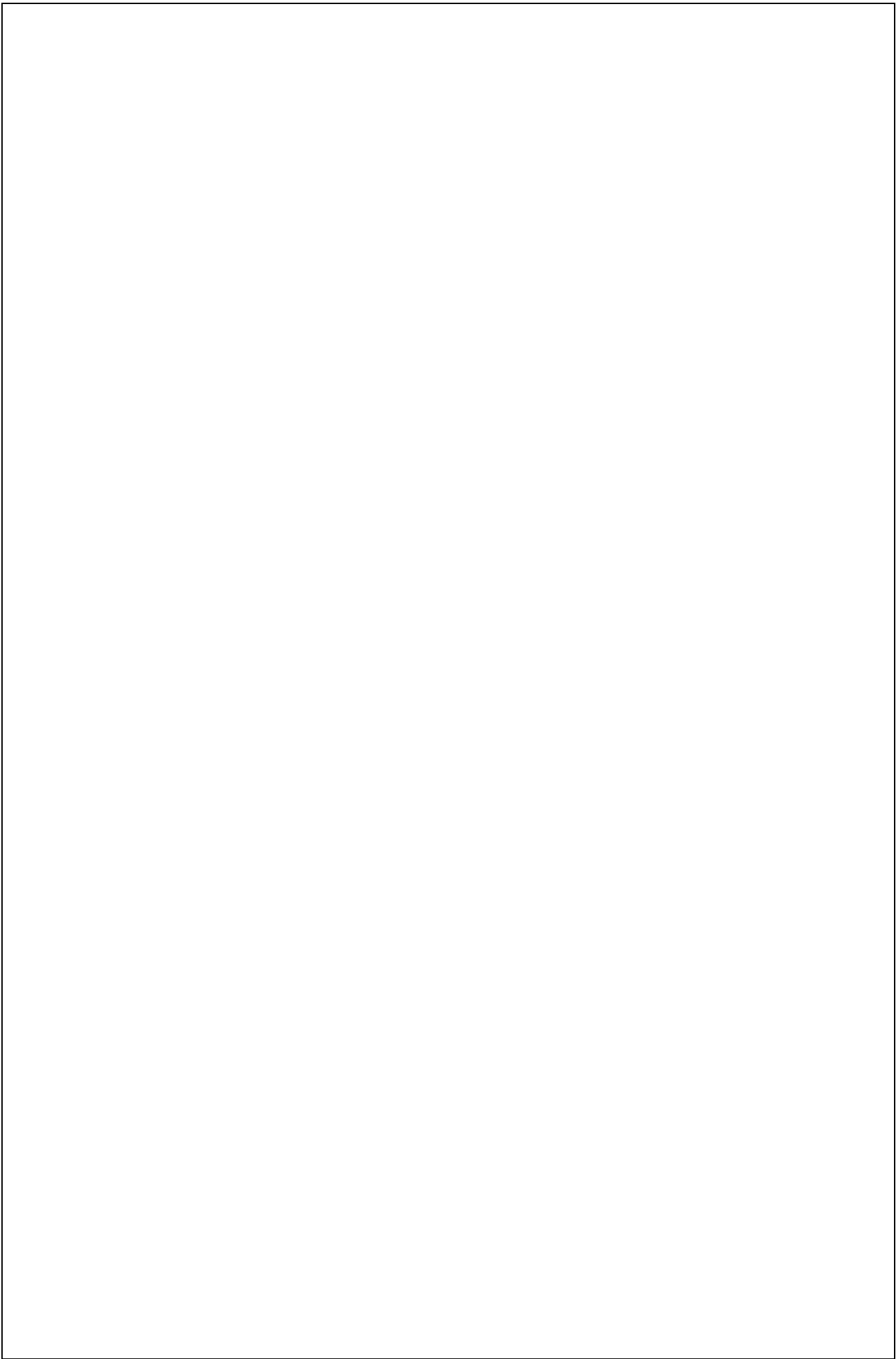
Hourly Employee, No Regular Work Week

An employee worked for an employer for 6 years and 3 months. His hourly wage was \$10.00/hour in the last 12 weeks before his employment was severed. He does not work the same number of hours every week, but the work week runs from Sunday to Saturday. The date of severance is October 31, 2005.

SAMPLE CALCULATION BASED ON EXAMPLE ABOVE

Note: "OT" = Overtime "PH" = Public Holiday

| Dates of 12 weeks before severance (month/day/year, e.g. May 1/05) Starting Aug.7 and ending Oct. 29/05; | Regular wages earned during week |
|---|---|
| 1) August 7 – August 13 2) August 14 – August 20 3) August 21 – August 27 4) August 28 – September 3 5) September 4 – September 10 6) September 11 – September 17 7) September 18 – September 24 8) September 25 – October 1 9) October 2- October 8 10) October 9- October 15 11) October 16- October 22 12) October 23- October 29 | Worked 44 hours: \$440.00 Worked 48 hours: 44 x \$10.00 = \$440.00 (OT not included) Worked 40 hours: \$400.00 Worked 40 hours: \$400.00 Worked 32 hours: \$320.00 (PH pay Sept. 5 not included) Worked 40 hours: \$400.00 Worked 40 hours: \$400.00 On Vacation (Vacation Pay not included) On Vacation (Vacation Pay not included) Worked 32 hours: \$320.00 (PH pay Oct. 10 not included) Worked 44 hours: \$440.00 Worked 44 hours: \$440.00 |
| (A) Total regular wages earned during 12 weeks before severance: | \$4,000.00 |
| (B) Regular weekly wage, or if you do not have a regular weekly wage: Total regular wages (A) divided by number of weeks actually worked in the last 12 weeks before severance | \$4,000.00 DIVIDED by 10 (weeks on vacation are not included in the calculation of average) = \$400.00 |
| (C) Number of completed years of employment | 6 |
| (D) Number of completed months of employment divided by 12 for a year that is not completed | 3 divided by 12 = 0.25 |
| (E) Number of weeks of severance pay due (C) + (D) | 6.25 |
| (F) Number of weeks of severance pay due (E) X regular weekly wage (B): | 6.25 x \$400.00 = \$2,500.00 |
| TOTAL OWED: | \$2,500.00 |



**EMPLOYEE SELF HELP KIT
MARCH 2006**



This Self Help Kit form is provided for your information and convenience only. **This is not a claim form.**
For information on filing a claim, call the Employment Standards Call Centre at 1-800-531-5551 or visit www.labour.gov.on.ca.