

Filing a claim

A claim is a written explanation of an employee's complaint, which also has important information about the employee, the job and the employer.

Filing a claim is free. An employer cannot punish an employee for filing a claim.

3 steps to filing a claim:

- 1) **Contact the Ministry of Labour as soon as possible.** If you believe your rights have been violated you should try to resolve the matter first with your employer. You can get a Self Help Kit from the Ministry of Labour that contains a form letter you can send to your employer. The Self Help Kit is available at ServiceOntario Centres and online at www.labour.gov.on.ca.
- 2) **If you are unable to resolve the matter with your employer, fill out a claim form.** Claim forms are available at ServiceOntario Centres and online at www.labour.gov.on.ca.
- 3) **File the claim form.** Call the Employment Standards Information Centre at (416) 326-7160 or toll-free at 1-800-531-5551 for information on where to file your claim.

Once a claim is filed, ministry staff will try to help solve the problem between the employee and employer. If the issue cannot be settled, an investigation may begin. Claims are investigated as quickly as possible. The time it takes to complete the process varies.

Contact the Ministry of Labour

Call the Employment Standards Information Centre at 416-326-7160 (Toronto area), or 1-800-531-5551 (toll-free), or 1-866-567-8893 for Hearing Impaired TTY.

Visit www.labour.gov.on.ca for copies of the ESA, fact sheets, claim forms and bulletins and to contact the ministry by e-mail.

If you don't speak English or French, find someone who can and have them with you when you call the Ministry of Labour.

Other important contacts

- Ontario Human Rights Commission
Toll-free: 1-800-387-9080
- Workplace Safety and Insurance Board
Toll-free: 1-800-387-0750
- Human Resources and Social Development Canada - Employment Insurance General Inquiries Toll-free: 1-800-206-7218

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.

Your Rights at Work

Employment Standards Act



What is the Employment Standards Act?

The Employment Standards Act, 2000, known as the ESA, is a law that sets minimum standards for fair workplace practices in Ontario.

Who is protected by the ESA?

If you work in Ontario, you are probably protected by the ESA. It does not cover federal employees and a few employees in other special categories. There are exceptions and special rules for some workers under the law.

Contact the Ministry of Labour to find out how you are protected by the ESA.

What basic rights are protected by the ESA?

Hours of Work - Generally, employees cannot be required or permitted to work more than:

- 8 hours a day – or the number of hours in an established work day if it's more than 8;
- 48 hours a week

An employee can agree in writing to work more than these limits. Such agreements are valid only if the employer gives the employee (where there is no trade union) an information sheet prepared by the ministry about hours of work and overtime before the agreement is made, and the agreement states that the employee received the information sheet. In addition, an employee cannot work more than 48 hours in a week unless the employer has an approval for excess hours from the Director of Employment Standards (subject to certain exceptions).

Overtime - Most employees must be paid overtime pay after 44 hours of work each week. The overtime rate must be at least 1½ times the regular rate of pay.

Minimum Wage - This is the lowest hourly rate an employer can pay an employee.

Minimum Wage Rate	February 1st, 2004	February 1st, 2005	February 1st, 2006	February 1st, 2007
General Minimum Wage	\$7.15 per hour	\$7.45 per hour	\$7.75 per hour	\$8.00 per hour
Student Minimum Wage	\$6.70 per hour	\$6.95 per hour	\$7.25 per hour	\$7.50 per hour

NOTE: The minimum wage is different for liquor servers, home workers, and hunting and fishing guides. Please contact the Ministry of Labour for more information.

Payment - Employees must be paid on a regular, recurring payday and given a statement showing their wages and deductions for that pay period.

Vacation Time and Pay - Most employees earn at least 2 weeks of vacation time after every 12 months of employment. Employees are entitled to be paid at least 4 per cent of their total wages earned as vacation pay.

Public Holidays - A public holiday is a day off work, with public holiday pay. Ontario has eight public holidays every year. Most employees are allowed to take public holidays off regardless of how long they've been working and whether they're full-time, part-time, permanent, a student, or on a limited-term contract.

Pregnancy Leave and Parental Leave - Eligible employees are entitled to take 17 weeks of Pregnancy Leave and 35 weeks of Parental Leave (if they have taken Pregnancy Leave). All other eligible parents, including pregnant employees who don't take Pregnancy Leave, can take up to 37 weeks of Parental Leave. These are unpaid, job-protected leaves.

Personal Emergency Leave - If an employer regularly employs at least 50 people, its workers are allowed to take up to 10 days a year of unpaid, job-protected Personal Emergency Leave. This leave is for personal illness, injury, or medical emergency, or for the death, illness, injury, medical emergency or urgent matter of certain family members.

Family Medical Leave - Employees can take Family Medical Leave to provide care or support to certain family members and people who consider the employee to be like a family member who have a serious illness with a significant risk of dying within a period of 26 weeks. It is unpaid, job-protected leave of up to 8 weeks in a 26-week period.

Termination Notice and Pay - An employer must give an employee advance written notice, or termination pay instead of notice, or a combination of both, if the employee has been working continuously for 3 months or more and his or her job is terminated. The amount of notice or pay depends on how long the employee has been working for the employer and the number of employees being terminated in a 4-week period.

There are other ESA rights not covered in this brochure, and not all employees qualify for all ESA rights.

Contact the Ministry of Labour for details.

Employees can't be punished for claiming their rights

Employers cannot intimidate, fire, suspend, or otherwise punish an employee, or threaten any of these actions because the employee asks for or asks about their ESA rights. If this happens, contact the Ministry of Labour.

The Ministry of Labour can help

If an employee thinks that an employer is not following the ESA law, he or she can contact the Ministry of Labour for help. Employment Standards Officers can inspect workplaces and look into possible violations of the ESA.

Employers can be ordered to:

- pay the wages that are owing to employees
- follow the rules of the ESA
- give back an employee's job
- compensate an employee

The Ministry of Labour can also charge an employer with an offence, including a ticket. If convicted, employers may be fined or sent to jail.

NOTE: Unionized employees should talk to their union representative before contacting the Ministry of Labour if they think their rights have been violated.