

Illness, Injuries and Disabilities

Labour Standards information for the restaurant and foodservices industry

1. Protection for illness or injury.

Employers may not discharge or terminate employees who have worked for them at least 13 continuous weeks because of absence due to illness or injury of the employee or dependant family member:

- if the absence is due to a serious injury or illness and does not exceed 12 weeks in a period of 52 weeks;
- if the employee is injured and receiving benefits under *The Workers' Compensation Act*, and does not exceed 26 weeks; or
- in situations where absences do not exceed 12 days in a year.

Employers are not required under labour standards to pay employees who are away sick. The employer can make a written request for a medical certificate from the employee.



'Immediate family' means a spouse, parent, grandparent, child, brother or sister of an employee or of a spouse. 'Spouse' is a person with whom an employee cohabits and has cohabited as spouses continuously for a period of two years or in a relationship of some permanence if they are parents of a child.

2. Modification of duties.

Employers have a duty to accommodate disabled employees. Where an employee becomes disabled and the disability would unreasonably interfere with the employee's ability to perform the job, the employer must modify the employee's duties or reassign the employee to another job where it is reasonably practicable to do so.

Labour standards considers it 'reasonably practicable' for the employer to modify job duties or reassign the employee as long as it does not cause the employer undue hardship. The employer must prove that it was not reasonably practicable to modify duties or reassign the employee. The disability does not have to be caused by an illness or injury at work.

3. Employee's obligations.

Employees should advise their employers if a disability or injury is interfering with their ability to perform the job. Employees also need to cooperate with employers in identifying the changes that need to be made to meet their needs. An employee who refuses to accept a reasonable accommodation may lose the right to that accommodation.

Note: This publication is not a legal document. The original Act and Regulations should be consulted for all purposes of interpretation and application of the law.



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