
REST/EATING BREAKS

Under a new section of the *Labour Standards Code*, Section 66B, employees are entitled to a thirty minute rest or eating break if their shift is longer than five consecutive hours.

Q: WHAT IF AN EMPLOYEE WORKS MORE THAN TEN CONSECUTIVE HOURS?

A: If an employee works more than ten consecutive hours, s/he is entitled to one unbroken half-hour break plus other rest or eating breaks totalling at least 30 minutes for each other five hours of work.

For example, if an employee works a shift of 12 consecutive hours, s/he should receive a full half hour break plus an additional 30 minutes in breaks that can be taken as a whole or split into two or more periods totalling 30 minutes.

Q: MUST THE BREAK BE PAID?

A: There is no requirement to pay the employee for the break unless the employee is required to remain available for work (see below).

Q: ARE THERE EVER CIRCUMSTANCES UNDER WHICH AN EMPLOYER DOES NOT NEED TO GIVE AN EMPLOYEE A BREAK?

A: Yes. The employer does not need to give a break if it is impractical because of an accident, because urgent work is necessary or because of other unforeseeable or unpreventable circumstances, or because it is unreasonable for an employee to take a meal break.

Q: IF AN EMPLOYEE CANNOT BE GIVEN A BREAK BECAUSE OF ONE OF THE EXCEPTIONS ABOVE, DOES S/HE HAVE THE RIGHT TO EAT AT WORK?

A: Yes. If an employee works more than five consecutive hours without a break, s/he has the right to eat at work unless this is unsafe or unreasonable.

Q: WHAT IF AN EMPLOYEE HAS MEDICAL CONCERNS REQUIRING HIM/HER TO TAKE A BREAK AT PARTICULAR TIMES?

A: Where it is necessary for medical reasons, an employee is entitled to take rest or eating breaks at times other than those summarized above. In some cases, the employee may also have a right to additional breaks as an accommodation under the *Human Rights Act*.

Q: WHAT IF AN EMPLOYEE HAS TO STAY AT THE JOB SITE DURING HER/HIS BREAK AND IS EXPECTED TO BE PREPARED TO WORK IF NECESSARY?

A: If an employee is under the direct control of the employer and expected to be available for work, this may be considered work. If so, the employee must be paid for this time.

Q: DO THE BREAK PROVISIONS APPLY TO ALL EMPLOYEES?

A: No. The breaks provisions do not apply to unionized employees. Their entitlement to any such breaks would be included in their collective agreement.

Contact Labour Standards for more information.

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