

Are there time limits for filing a claim?

Yes. The deadlines are different depending on what your claim is for. Claims for unpaid wages should be filed as soon as possible; generally, you can only recover wages that should have been paid to you in the six months before you filed your claim. Refer to page 5 of the Claim Guide or contact the Employment Standards Information Centre at 1-800-531-5551 to confirm the deadline for submitting your claim(s).

What is needed to file a claim?

In completing the claim form, you must give details about:

- which standards were violated (e.g., your employer did not pay overtime or you did not receive severance or vacation pay)
- when it happened (dates and times)
- what is being claimed (including dollar amounts, if applicable)
- when your employer will not provide a record of employment (ROE).

In addition, you will be asked to give information about your employer, such as:

- your employer's name, full address and telephone numbers
- whether your employer is still operating
- whether your employer conducts business at other establishments or operates using any other name(s).

What happens after your claim is filed?

Your claim is reviewed to ensure that all the required information has been provided. If information is missing, you will be contacted by the Ministry; you must provide the information by the deadline stated. Once all required information is received, the claim is assigned to an employment standards officer for investigation. During the investigation of a claim, you may be asked to provide some or all of the following:

- copies of pay stubs or paycheques
- copies of T4 slips
- a copy of your written notice of termination (if your employment was terminated and/or severed by your employer and notice was given)
- a copy of your Record of Employment, if received
- a copy of your contract of employment, if there is one
- copies of any warning letters or notices received
- a record of the hours worked, if available (e.g., a calendar record, time sheets, attendance records, diary or notes).

What happens after the investigation?

If the employment standards officer finds that your employer **has** complied with the *ESA*, you will be notified in writing and have 30 days to apply for a review.

If the officer finds that your employer **has not** complied with the *ESA*, your employer can voluntarily comply with the officer's decision. If your employer does not do this, the officer can issue an order to pay wages, a compliance order, a ticket, a notice of contravention or issue an order to reinstate and/or compensate you, the employee. Employers have the right to appeal an officer's order; they must do this within 30 days of being served with the order or notice.

Can you take your employer to court AND file a claim with the Ministry of Labour?

If you have already started a court action, you generally **cannot** file a claim with the Ministry of Labour about the same matter (there are some exceptions). If you file a claim with the Ministry of Labour, you generally cannot start a court action unless you withdraw your claim within 2 weeks of the date you filed the claim. If you have any questions about court actions, the Ministry of Labour suggests that you consult a lawyer before filing your claim.

Record of Employment (ROE)

If your employer issues **ROEs on paper**, they must issue an ROE within **5 calendar days** of: the first day of, **or** the day they became aware of, an interruption of earnings.

Employers who issue **electronic ROEs** do NOT need to provide a paper copy to employees. For weekly, bi-weekly, or semi-monthly pay periods, employers have up to **5 calendar days after the end of the pay period** in which an employee's interruption of earnings occurs to issue an electronic ROE.

If your employer will not provide you with or file your ROE electronically by the specified time, call the EI Claimant Line at **1-800-206-7218**.

Contact the Ministry of Labour:

Call toll-free **1-800-531-5551** for more information or to request a claim form.

Visit **www.labour.gov.on.ca** to view and print publications, guides, regulations, claim forms, or to file your claim online.

Or visit any **ServiceOntario** Centre to pick up and file your claim forms; to locate the centre nearest you, call 1-800-267-8097.

For more information, contact your local Northwest Community Legal Clinic office:

In the Kenora district:
468-8888 or 1-800-403-4757

In the Rainy River district:
274-5327 or 1-800-799-2485

In the Atikokan area:
597-2811

KNOW YOUR RIGHTS AS AN EMPLOYEE

The Ontario Employment Standards Act



Information and Guide

All information taken from the Ontario Ministry of Labour and Service Canada websites

*Produced by the Northwest Community Legal Clinic
January 2012*

What You Should Know About the Ontario Employment Standards Act

The *Employment Standards Act, 2000*, also known as the *ESA*, is a law that sets minimum employment standards for most workplaces in Ontario. There are exceptions and special rules for some employees and not all employees qualify for all *ESA* rules.

Your Rights at Work

If you are protected by the *ESA*, you have rights at work. If you think your employer is not following the *ESA* and you are not getting what you are entitled to, contact the Ministry of Labour for help. Ministry staff can help you understand your rights, answer your questions and investigate your complaint.

Your employer cannot: intimidate you, fire you, suspend you, reduce your pay, punish you in any way or threaten any of these actions because you ask about or ask for your *ESA* rights, you talk to Ministry of Labour staff about your rights, or you file a complaint with the Ministry under the *ESA*.

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

Minimum Wage – This is the lowest rate an employer can pay an employee. Most employees are entitled to be paid at least the minimum wage.

Ontario Minimum wages as of March 31, 2010		
General	Student	Liquor server
\$10.25/hr	\$9.60/hr	\$8.90/hr

Note: The minimum wage is different for homeworkers and hunting and fishing guides.

Hours of Work – No employee shall work more than:

- eight hours in a day, or the number of hours in a regular work day if it is more than eight hours; and
- 48 hours in a work week.

Free from work time – Generally, employees must have at least:

- 11 consecutive hours off work each day;
- at least 8 hours off between shifts, unless the total time worked on successive shifts is not more than 13 hours;
- 24 consecutive hours off work each week or 48 consecutive hours off work in every two consecutive work weeks.

Overtime Pay – Generally, most employees must be paid overtime pay of at least 1½ times the regular rate of pay for all hours worked over 44 hours each week.

Payday – 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 are entitled to at least 2 weeks of vacation time for every year that they work. Employees are entitled to be paid at least 4 per cent of their total wages earned as vacation pay.

Public Holidays – Ontario has 9 public holidays every year (New Year's Day, Family Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Christmas Day, Boxing Day). Most employees take these days off work, with public holiday pay.

Leaves of Absence – Eligible employees are entitled to these unpaid, job-protected leaves:

- 17 weeks of pregnancy leave
- 35 or 37 weeks of parental leave
- up to 10 days per year of unpaid personal emergency leave
- up to 8 weeks of unpaid family medical leave
- Declared emergency leave
- Reservist leave.

Termination Notice and Pay – Generally, if an employee has been working for 3 months or more and his or her job is terminated, the employer must give the employee advance written notice, or termination pay instead of notice, or a combination of both.

Young Workers – For more information on your rights and responsibilities at work, please visit: www.ontario.ca/youngworkers.

What work is not covered by the *ESA*?

Most employees and employers in Ontario are covered by the *ESA*. However, the *ESA* does **not** apply to certain individuals and persons or organizations for whom they may perform work, including:

- Employees in sectors that fall under federal jurisdiction, such as airlines, banks, the federal civil service, post offices, radio and television stations and inter-provincial railways
- Individuals performing work under a program approved by a college of applied arts and technology or university
- A secondary school student who performs work under a program authorized by the school board that operates the school in which the student is enrolled
- People who do community participation under the *Ontario Works Act, 1997*
- Police officers
- Inmates taking part in work or rehabilitation programs, or young offenders who perform work as part of a sentence or order of a court
- People who hold political, judicial, religious or elected trade union offices.

For a complete listing of other work categories not governed by the *ESA*, please check the *ESA* and its regulations. Regulations set out exemptions to the law, special rules and details about how to apply certain sections of the *ESA*.

Claim Your Rights

Four steps to filing a claim

- 1) **Contact your employer.** Generally you are required to try to contact your employer about your employment standards issue(s). Issues can often be resolved quickly with this approach. For information about contacting your employer or why you may not need to contact your employer, see pages 5-8 of the *Before You Start* booklet.
- 2) **Collect important documents.** These documents may be needed to fill out the Claim Form and you may need to send them to the Ministry if your claim is investigated. Refer to page 6 of the Claim Guide.
- 3) **Fill out the Claim Form.** The Claim Form asks for a lot of detailed information, it can take an hour or more to complete it (refer to the Claim Guide). For help estimating the amount of money you are owed, refer to Appendix B of the Claim Guide.
- 4) **File your claim with the Ministry of Labour.** There are four ways to file your claim: online (you will receive your claim submission number immediately), by fax, by mail or in person at a ServiceOntario Centre. If you file by fax, in person or by mail, you will receive a letter in the mail with your claim number, or a request to provide more information if your claim is incomplete. Refer to the *Before You Start* booklet.

There is no cost to file a claim. An employer cannot punish an employee for filing a claim.