

Claim Your Rights: A Step-By-Step Guide on How to File a Claim

Information Sheet

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

If you are protected by the ESA, you have rights at work. 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 asked about or asked for your ESA rights.

Who can help enforce my rights?

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. Unionized employees should talk to their union representative first.

Ministry staff can help you understand your rights, answer your questions and investigate your complaint. Your employer cannot punish you for talking to the Ministry of Labour about your rights.

After speaking with us, you may decide to file a claim.

Four steps to filing a claim

Step 1: Have you contacted your employer?

Generally, you are required to try to contact your employer about your employment standards issue(s) before your claim will be investigated. Issues can often be resolved quickly with this approach. **The following are examples of situations where employees may not be required to contact their employer:**

- You already tried to contact your employer.
- The money owed to you is from five months ago or more (there are time limits on recovery, **see page 5 of the Claim Guide**).
- Your workplace has closed down.
- Your employer has gone bankrupt or is in receivership.
- You are afraid to do so.
- Your issue does not involve money.
- You are or were working as a live-in caregiver.
- You have difficulty communicating in the language spoken by your employer.
- You are a young employee.
- You have a disability that makes it difficult for you to contact your employer, or

- There is a reason relating to a ground under the Ontario Human Rights Code.

If none of the reasons listed describe your situation and if you feel that you have a good reason not to contact your employer about your employment standards issue, you will have an opportunity to explain why on the Claim Form.

For more information, please contact the **Employment Standards Information Centre at 416-326-7160 or 1-800-531-5551.**

The ministry has also created **worksheets** to help you figure out what you are owed and **tools** to make contacting your employer easier. These tools can be found in the Before You Start booklet and the Claim Guide.

Step 2: Collect important documents

To help you fill out the Claim Form, you may need to refer to important documents about your employment history and your employer's contact information. You may need to send these documents to the ministry if your claim is being investigated. For more information on what documents you may need, please see "Collect Important Documents" in the Claim Guide.

Step 3: Fill out the Claim Form

The Claim Form asks you to give a lot of detailed information. It may take you an hour or more to complete it.

The basic information we need from you will be marked by an asterisk (*). The Ministry of Labour may contact you if you are missing required information.

For help completing the Claim Form, go to our website at www.labour.gov.on.ca/english/es/forms/claim.php to find contact information for support services. You can also call the Employment Standards Information Centre at 416-326-7160 or 1-800-531-5551.

Once we have all the information we need to investigate your claim, we will contact you with your claim number and your claim will move forward for investigation.

Step 4: Send your claim to the Ministry of Labour

Individuals can file a claim submission in these ways:

Online at: www.labour.gov.on.ca/english/es/forms/claim.php. You will receive your claim submission number immediately.

By Fax at: 1-888-252-4684.

In person at: a ServiceOntario Centre (1-800-267-8097).

By mail to:

Provincial Claims Centre
Ministry of Labour
70 Foster Drive, Suite 410
Roberta Bondar Place
Sault Ste. Marie, ON P6A 6VA

Note: If you file your claim submission by fax, in person, or by mail, you will receive a letter in the mail with your claim number once all of your required information has been

verified. If your claim submission is missing required information, you will receive a letter in the mail with your claim submission number, and a request to provide more information.

A claim submission number is assigned as soon as the ministry receives and registers your Claim Form. You will be provided with a claim number and your claim will be assigned for investigation once the ministry has verified that all required information has been completed.

Once a claim is filed, ministry staff can attempt to resolve the issue between you and your employer. If the issue cannot be resolved, an investigation may begin. Claims are investigated as quickly as possible. The time it takes to complete the process varies.

Where can I get a Claim Form?

To file a claim, an employee must complete the Claim Form, which can be obtained from the Ministry of Labour's website, www.labour.gov.on.ca, by mail through **ServiceOntario Publications** and in person at a **ServiceOntario Centre**.

What is needed to file a claim?

In completing the Claim Form, the employee must give details about:

- which minimum standards were violated (e.g. the employer did not pay overtime or the employee did not receive severance pay)
- when it happened (dates)
- how much money is claimed to be owed (e.g. dollar amounts, if known)

In addition, the employee will be asked to give information about the employer, such as:

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

What happens next?

Once your claim has been reviewed, and all required information has been provided, an Employment Standards Officer of the Ministry of Labour will be assigned to investigate your claim.

During the investigation of a claim, the employee will be asked to provide some or all of the following:

- copies of pay stubs or pay cheques
- copies of T4 slips
- a copy of his or her written notice of termination (if the employee's employment was terminated and/or severed by the employer and notice was given)
- A copy of the employee's Record of Employment, if received
- A copy of the contract of employment, if there is one
- Copies of any warning letters or notices received
- A record of the hours worked if available (i.e., 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 not violated your rights, the officer will tell you. If you do not agree with the decision, you have 30 days to apply to have it reviewed.

If the Employment Standards Officer finds that your employer broke the law, the officer can order your employer to:

- pay wages that are owed to you
- follow the rules of the ESA
- give you back your job
- compensate you.

Employers can also be prosecuted for contravening the ESA. If convicted, your employer may be fined and/or sent to jail.

Are there time limits?

With some exceptions, the Ministry of Labour can only recover wages that became due within six months before the claim is filed. For more information, visit the website at www.labour.gov.on.ca/english/es/pubs/guide/esclaim.php.

Contact the Ministry of Labour

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

Visit the Employment Standards section of the Ministry of Labour website, www.labour.gov.on.ca, to access online publications that provide more detailed information on ESA rights.

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.