

EMPLOYMENT STANDARDS

CLAIM YOUR RIGHTS

A Step-by-step Guide on How to File a Claim

The Employment Standards Act, 2000, 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
- Threaten any of these actions,

because you asked about or asked for your ESA rights.

Who can help me get my rights?

If you think your employer is not following the ESA and you are not getting your rights, 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.

Three 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 that you can send to your employer. The Self Help Kit can be accessed at ServiceOntario Centres and on the Ministry of Labour website.
- 2) **If you are unable to resolve the matter with your employer, fill out a claim form.**
Claim forms are available at ServiceOntario Centres, on the Ministry of Labour website, and through the Employment Standards Information Centre.
- 3) **File the claim form.**
Call the Employment Standards Information Centre for information on where to file your claim.

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

What is needed to file a claim

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

- which minimum standards were violated (i.e., the employer did not pay overtime or the employee did not receive severance pay)
- when it happened (dates and times)
- what is being claimed (including dollar amounts, if applicable)

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

- the employer's name, full address and telephone numbers
- 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 is filed, we will try to help you solve the problem directly with your employer. If the issue cannot be settled, an investigation may begin.

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

- copies of pay stubs or paycheques
- 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).

How long does it take?

Once a claim is filed, claimants will receive an acknowledgement letter from the Ministry of Labour indicating current wait times.

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.

The officer can also charge your employer with an offence, including a ticket. If convicted, your employer may be fined or sent to jail.

Are there time limits?

Yes. You should file your claim for unpaid wages as soon as possible because, generally, you can only recover wages that should have been paid to you in the six months before you filed your claim. You must file all other claims within two years of the violation.

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. If you do not speak English or French, please find someone who does and have them with you when you call.

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 the rights that are protected by the ESA.

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.

