

Your Employment Standards Rights: Foreign National Live-in Caregivers

Information Sheet

Foreign National Live-in Caregivers

As a foreign national working as a live-in caregiver in Ontario, you have employment standards rights under the *Employment Standards Act, 2000* (ESA). You also have protections under the *Employment Protection for Foreign Nationals Act (Live-in Caregivers and Others), 2009* (EPFNA). You have the right to receive an information sheet about your EPFNA rights along with this information sheet.

WHAT ARE MY EMPLOYMENT STANDARDS RIGHTS AT WORK?

You must be paid on a regular, recurring payday, and your employer must provide you with a statement showing your wages and deductions for that pay period.

Limits on Hours of Work

Generally, you cannot be required to work more than 8 hours a day or your regular daily work schedule (if more than 8 hours). For you to work more than the daily limit, your employer must have your written agreement.

Generally, you cannot be required to work more than 48 hours a week. For you to work more than 48 hours in a week, your employer must have your written agreement and an approval from the Ministry of Labour.

Generally, you must have at least 11 consecutive hours off work each day, and 24 consecutive hours off work each week, or 48 consecutive hours off work in every 2-week period.

Overtime Pay

You must be paid overtime pay after 44 hours of work each week. The overtime rate must be *at least* 1½ times the regular rate of pay.

Minimum Wage

The minimum wage is the lowest hourly rate an employer can pay an employee. Currently the minimum wage is \$9.50 per hour and it will rise to \$10.25 per hour on March 31, 2010.

Your gross pay, before deductions, must be at least minimum wage. By law, your employer must deduct Income Tax, Canada Pension Plan (CPP), and Employment Insurance (EI) from your total pay and your employer must make CPP and EI contributions for you.

If you and your employer agree that you will receive a wage greater than the minimum wage, then that is the amount you are entitled to receive.

CAN MY EMPLOYER DEDUCT ROOM AND BOARD (MEALS)?

An employer can take into account having provided you with room and board (meals) for the purpose of ensuring that the minimum wage has been paid. The amounts that an employer is considered to have paid as wages for room and board (meals) are set out below:

Room: weekly

- private room: \$31.70

Meals

- each meal: \$2.55
- weekly maximum: \$53.55

Room and board (meals): weekly

- private room: \$85.25

Your room must be fit for human habitation. It must also be reasonably furnished, supplied with clean bed linen and towels, and be reasonably accessible to proper toilet and wash basin facilities.

Room and/or board is not considered part of wages unless you have actually received the meals or occupied the room.

Public Holidays

You are entitled to take a public holiday off work, with public holiday pay, regardless of how long you have been working. Ontario has nine public holidays every year. They are: New Year's Day, Family Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Christmas Day, and Boxing Day.

Pregnancy Leave and Parental Leave

You may be entitled to take 17 weeks of pregnancy leave and 35 weeks of parental leave (if you have taken pregnancy leave). All other eligible new parents, including birth mothers who do not take pregnancy leave, can take up to 37 weeks of parental leave. These are unpaid, job-protected leaves. To get more information about eligibility for pregnancy and parental leave, call the Employment Standards Information Centre.

Family Medical Leave

You can take family medical leave to provide care or support for certain family members – and people who consider you to be like a family member – who have a serious illness with a significant risk of dying within a period of 26 weeks. It is unpaid, job-protected leave of up to 8 weeks in a 26-week period.

Vacation With Pay

You are entitled to *at least* 2 weeks of vacation time after every 12 months of employment. You are entitled to be paid an amount equal to *at least* 4% of your total wages earned as vacation pay.

Termination Notice and/or Pay Instead of Notice (if employed for at least 3 months)

Your employer must give you advance written notice, termination pay instead of notice, or a combination of both, if you have been continuously employed for 3 months or more and your employment is terminated. The amount of notice or pay depends on how long you have been employed by the employer.

CAN MY EMPLOYER PUNISH OR THREATEN ME BECAUSE I ASK QUESTIONS ABOUT MY RIGHTS OR ASK FOR MY RIGHTS?

No. Your employer cannot do any of the following because you ask for or about your workplace rights:

- Intimidate you
- Fire you
- Suspend you
- Reduce or withhold your pay
- Punish you in any way, or
- Threaten any of these actions.

If you think your employer has punished you for asking about or for exercising your rights at work, contact the Employment Standards Information Centre as soon as possible. If, after you file a claim, we decide that your employer has punished you for asking about or for exercising your rights at work, we can order your employer to compensate you or pay you any wages you are owed.

You cannot agree to give up your rights

You cannot agree to give up any of your employment standards rights. Any such agreement is invalid.

What if I have a question or want to file a claim?

If you have any questions about employment standards, or believe you have not received your rights and want to make a claim to the Ministry of Labour, please contact the Employment Standards Information Centre at (416) 326-7160 (toll-free at 1-800-531-5551) or, for the hearing impaired, at TTY 1-866-567-8893. You may also visit www.labour.gov.on.ca for more information or to file a claim on-line. You can also get an Employment Standards claim form at a ServiceOntario Centre. To locate the Centre nearest you, please call 1-800-267-8097. Please note that separate forms are used to file claims under the ESA and the EPFNA.

Other languages

This information sheet is also available in French and certain other languages. If your first language is not English, your employer or recruiter must find out if the information sheet is available in that language and provide it to you in that language if it is available. To find out which languages the information sheet is available in, please contact the Employment Standards Information Centre at (416) 326-7160 (toll-free at 1-800-531-5551) or, for the hearing impaired, at TTY 1-866-567-8893.

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.