

I can't get my employer to give me a pay stub. I am working 52 hours a week with no overtime. I work 6 hours straight without a coffee break.

Legal Information

The *Employment Standards Act, 2000* (ESA) sets out minimum standards of employment in most Ontario workplaces that are not covered in more specific statutes, such as the Occupational Health and Safety Act and the Human Rights Code.

There are many rights that have general application, but there are many exemptions to almost every minimum standard. The [Ministry Fact sheets](#) are very useful and accurate. Broadly speaking, employment standards rights can be broken down into the following categories:

Payment issues

- Minimum wage
- Termination and severance
- holidays
- Equal pay for equal work
- Benefit Plans

Hours of Work issues

- Vacation entitlement
- Hours of work and eating periods and overtime
- Public Leaves of absence
- Retail Business--public holidays

Administration/Enforcement issues

- Continuity of employment (Successor employers)
- Posting of information
- Records
- Anti-reprisals
- Liability of Directors
- Complaints and enforcement

Other issues

- Lie detectors
- Access to Benefit Plans

Enforcing Minimum Standards

Refer to [How to File a Claim Under the Employment Standards Act, 2000](#) on the website. You cannot both sue in court for wrongful dismissal and file a claim to the Ministry to recover the same money.

The Act protects employees who try to enforce their rights from reprisals. This means that you cannot be disciplined (i.e. demoted, disciplined or fired) because you tried to understand or enforce your rights.

The employee can ask that her name not be disclosed to the employer. If an employee does not permit her name to be used, the employer may have an easier time rebutting the reprisal presumption.



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Time limitations

You should file your claim within 6 months of the money being owed to you. There are some exceptions. The Ministry can advise you on these exceptions. Important exceptions include claims about reprisals and claims related to leave violations. These claims can be made up to two years after the reprisal.

Monetary limitations

The maximum amount that an ESO can order for wages owing to an employee is \$10,000. There is no limit for awards in cases of reprisals or leave violations.

Complaint process

A complaint, filed on a proper form, will be investigated by an Employment Standards Officer (ESO) who has the power to order fact finding meetings and inspect workplaces and documents. The most common enforcement tool is an order to pay wages.

Appeals

There is a 30 day limitation period to appeal a decision of the ESO. The appeal is made to the Ontario Labour Relations Board. Refer to the OLRB website. Appeal applications are started on Form A-103 (available on the OLRB website). Refer to OLRB Bulletin #24. The OLRB Rules Practice are heavily modified in ESA appeals. As a general rule, about 80 - 90% of OLRB cases are settled prior to hearing.

Resources:

- Ministry of Labour website, Employment Standards Fact sheets
<http://www.labour.gov.on.ca/english/es/pubs/complete.php>
- Ministry of Labour Guide to the ESA: <http://www.labour.gov.on.ca/english/es/pubs/guide/index.php>
- Ontario Labour Relations Board website: www.olrb.gov.on.ca
- Know Your Rights Campaign (Ontario Federation of Labour)
http://youth.ofl.ca/index.php/happening/know_your_rights_flyer/

www.communitylegalcentre.ca

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