



MINISTRY OF LABOUR CLAIM

Getting what's owed to you

Many workers in Ontario are covered by the **Employment Standards Act (ESA)**, the law that sets out the minimum standards for your rights at work (minimum wage, overtime, vacation, basic leaves, etc). Workers covered by the ESA can file a claim at the **Ontario Ministry of Labour** for unpaid wages and other violations at work. This is the provincial government body that enforces the ESA and the **Occupational Health and Safety Act (OHSA)**.

Every year, thousands of workers are forced to file claims for unpaid wages or other employment violations when their boss breaks the law. It's important that you know how and when to apply and where to go for support. Here is some basic information outlining what happens when you file a claim at the Ministry of Labour.

STEP 1

Before you file a claim

Filing at the Ministry of Labour

- Workers who have unpaid wages that become due on or after February 20th, 2015, will have **two years** to file a claim to recover those wages. There will be a transition period as the new rules are phased in which may affect any claims on wages owing before February 20th, 2017. Contact the Ministry of Labour about how this may affect you.
- Starting February 20th, 2015 there will be **no limit** on the amount you can claim. This is only for wages due on or after February 20th, 2015.
- It is **free** to file a claim at the Ministry of Labour.
- You cannot file a claim if you are a member of a union or if you have filed in court for the same issue.

ALERT

The application form will tell you to contact your employer and to try to solve the problem yourself before you file a claim. You don't have to contact your employer in some cases. The application form lists situations in which you don't have to contact your employer, such as:

- You have already tried to contact the employer;
- Your workplace has closed down;
- You are afraid to do so;
- You are or were working as a Live-In Caregiver;
- You are a young employee; and/or
- There is any reason relating to a ground under the Ontario Human Rights Code.

Not an employee?

If you are truly an independent contractor or self-employed you cannot file a claim at the Ministry of Labour. Contact S.W.E.A.C. for more details.

There are many exceptions and rules when filing a claim.

Call the Ministry of Labour at 1-800-531-5551 or S.W.E.A.C. to find out how the rules apply to your specific situation.

STEP 2

Filing a Claim at the Ministry of Labour

You can file your claim online, by fax, or send it by mail. Once it is filed you need to keep your **claim submission number**. This is confirmation that your claim is now in the system and can be used to track your claim. If you submitted your claim online, you will immediately receive a claim submission number. If you sent the claim form by mail, a claim submission number will be mailed to you. If you don't receive a claim submission number in the mail, call the Ministry of Labour to find out what has happened to your application.

Keep a copy of your application form and all other documents and records about your employment. Once an Employment Standards Officer contacts you, they will ask you to send your documents to them directly. The whole process, from filing your claim to getting a final decision, can take 2 - 6 months or longer.

STEP 3

The Ministry of Labour will contact you and your employer

ALERT

Document Everything!

It is really important that you keep all work related documents in a safe location. Here is a list of information that could help if you ever need to file a claim with the Ministry of Labour:

- Hours worked;
- Diary of work related issues;
- Record important conversations with your employer;
- Important dates (days off, days worked, etc.);
- Doctors notes; and
- Employers name and address.

An **Employment Standards Officer (ESO)** will contact you by telephone. They are responsible to investigate your claim and decide if your claim is complete and valid.

Once the ESO decides that your claim is valid, they will verify it by adding a dash and a number onto your existing submission claim number. For example, if your claim submission number is 70022188, the ESO will verify it by adding a number to it like this; 70022188-7. This means that the investigation will begin. Keep this number in a safe place for future reference.

The ESO will ask you questions about your claim. Common questions are:

- Do you have any proof of the hours you worked?
- What kind of proof? (diary, etc.)
- Did you keep a calendar of your work hours?
- You might also be asked to explain in detail the kind of work you do and your duties.

You may also have to explain what happened if you contacted your employer yourself- or explain why you did not contact your employer to solve the problem on your own.

The ESO will call your employer.

The ESO will ask your employer questions about your claim and get more information about the situation. The employer can also be asked to provide any information or documentation pertaining to your claim (pay cheques, proof of payment or timesheets).

STEP 4

You may be asked to attend a meeting with the ESO and your employer

Not happy with the decision?

You can appeal.

See Step 5

If there is still a dispute about your wages, you may be asked to attend a meeting with the ESO and your employer. You will need to bring all the information and documents you have. You may want to bring a friend with you for support or to translate for you if needed. Both you and your employer will have the chance to show evidence and tell your side of the story.

The Decision

Through this process, you may be able to reach an agreement with your employer. If you and your employer cannot agree, the ESO will make the final decision based on all the information and facts.

Once a decision is made about the claim, you will receive written notice from the Ministry of Labour with all the details about the decision. If you win, your employer will receive an “Order to Pay” and will have 30 days to pay you. If they don’t pay, the claim may be sent to a collection agency to get the money. If you have an order to pay and have not been paid, you could call S.W.E.A.C who can help you with the next steps.

Pushed to settle for less than you are owed?

Many workers report that they feel pushed by the Ministry of Labour to settle for less money than they are owed. If you do not want to settle, you can refuse. You and your boss may agree to settle at any time in the process. If your boss does not pay what is agreed to in the settlement you can return to the ESO to proceed with the investigation.

STEP 5

Complete and submit an “Application for Review” form

You or your employer can appeal the decision made by the ESO. The Application for Review form and Information Bulletin (with detailed information about the review process) are available from the Ontario Labour Relations Board (OLRB), also known as “the Labour Board”.

A signed original Application for Review form and a copy of the form must be submitted to the Labour Board. Copies of the application must also be submitted to the Ministry of Labour and your employer.

IMPORTANT! These forms must be received by the Labour Board, the Ministry of Labour and your employer within 30 days of the decision.

When submitting the Application for Review form, include any report from the ESO’s investigation and the final decision letter that you received from the Ministry of Labour.

You will receive a letter to confirm that your application was received.

**QUESTIONS?
CONTACT
S.W.E.A.C!**



STEP 6

You will be contacted by a Labour Relations Officer for mediation

The Labour Relations Officer will act as a mediator and will set up a mediation meeting with you and your employer to try to reach a settlement. Mediation is often a face-to-face meeting, though sometimes it can take place over the phone. Mediation usually takes place in the Labour Board regional offices. The Labour Relations Officer cannot make a final decision. If you and your employer cannot reach a settlement through mediation, the application will go to a hearing before the Labour Board (see Step 7).

STEP 7

The Ontario Labour Review Board Hearing

You will receive a Notice of Hearing by mail with a date and time for the hearing.

Any documents that you feel are important to your case, must be presented either during the mediation process or at the hearing. The Board will only make decisions based on the information you presented during this time. You cannot present the documents after the hearing.

At the hearing, you will be asked to give a statement to explain your case and tell your story. The Ministry of Labour and your employer will also be asked to explain their sides. You are able to attend the hearing with a lawyer or advocate.

The Final Decision

You will receive the decision of the Labour Board by mail. The decision is final and there is no appeal process. If you or your employer is unhappy with the Labour Board's decision, you can challenge it in court. However you will likely need to hire a lawyer to do this.

If you win, the Labour Board does not ensure that your boss pays you. The Ministry of Labour is responsible for doing this. If you have problems or concerns about getting paid after you win, contact the Ministry of Labour.

Get Support

The Sudbury Education and Advocacy Centre

109 Elm Street, Suite 209
Sudbury, Ontario
P3C 1T4
705-470-3323

www.sudburyworkerscentre.ca

Ontario Labour Relations Board

For appealing an employment standards claim decision that you disagree with.

1-877-339-3335
www.olrb.gov.on.ca

Ministry of Labour Employment Standards Branch

For Employment Standards Claim information and claim form.

1-800-531-5551
www.labour.gov.on.ca



For information on your rights at work contact S.W.E.A.C.

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