



Employment Law Fact Sheet

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Who does this information apply to?

- ✓ This information only applies to employees working within Ontario.

When does the ESA apply?

- ✓ The *Employment Standards Act* (ESA) does not apply to independent contractors, students in "work experience programs" approved by a school board, college, or university, people on social assistance doing community participation under Ontario Works, inmates in work programs, and people ordered or sentenced by a court to work.
- ✓ You do not need to be a Canadian citizen, permanent resident, or holder of a work permit to be covered by the ESA.

How much notice should an employer give?

- ✓ Although an employer can dismiss an employee without notice for cause (e.g. stole, damaged property, threatened or harassed coworkers), in most cases, your employer must give you a written notice of termination. Your employer can either give you notice or "payment in lieu of notice". The ESA minimum notice periods range from **1 week** for people who have worked at least 3 months, to **8 weeks** for people who have worked for 8 years or more.
- ✓ Your employer must pay you your wages, including your vacation pay, by the later of these 2 dates: 7 days after your employment ends or your next regular pay day.

What is severance pay?

- ✓ Severance pay is different from termination pay. You get severance pay **only** if you have worked at least 5 years for your employer **and** our employer pays out wages of at least \$2.5 million a year, or at least 50 people will be losing their jobs within a 6-month period because the business is being cut back.

What is constructive dismissal?

- ✓ Constructive dismissal happens when your employer changes things at work for you in a major way, the change is not something you should have expected, and you do not agree to or accept it. When this happens, or if your employer creates a toxic/poisoned work environment, and you leave the job, you have the same rights as if you were fired, including the right to termination pay.

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What if I am discriminated against at work?

- ✓ If an employee is discriminated against on the basis of any ground in the *Human Rights Code*, the employee can make a claim at the Human Rights Tribunal of Ontario. The following grounds are protected: age, ancestry, colour, race, citizenship, ethnic origin, place of origin, creed, disability (mental, physical, addiction), family status, gender identity, gender expression, record of offences, sex (including pregnancy and breastfeeding) and sexual orientation.

How do I get my unpaid wages?

- ✓ You may be able to enforce your rights under the ESA by making a claim against your employer. The Ministry of Labour can order your employer to pay you money that you are owed based on the rules in the ESA. A claim for unpaid wages must be filed with the Ministry of Labour within 2 years of the date the wages were owing.
- ✓ You may be entitled to more damages in civil court, which also has a 2 year period. However, you have to opt for one course of action. It is wise to consult with a lawyer to determine the best course of action for your circumstances.

Can I get my job back?

- ✓ In some cases, the Ministry can order your employer to give you your job back and to compensate you for any loss caused by your employer's actions. The Ministry of Labour has an Employment Standards Claim Form that you can fill out and file. The form is available at a ServiceOntario Centre or on the Ministry of Labour website at www.labour.gov.on.ca.

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