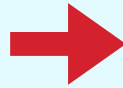




WORKING? WHAT ARE YOUR **RIGHTS**?

Paid in cash
and/or less than
minimum wage?



- Minimum wage and other ESA rules **still** apply to cash jobs
- You have to report your pay when you file taxes, but you have the same rights to paid cash as any other worker

Paid per day
versus per
hour?



- Employers must pay **at least** the minimum wage for all hours worked (this happens a lot in construction)

Working
overtime, but not
paid for it?



- Employers must pay you overtime pay (1.5x pay rate for work over 44 hours/week)

Working a public
holiday, but not
properly paid
for it?



- Employers must pay you public holiday pay and public premium pay
- *Please note that some workers are ESA exempt*
- *Please note that sometimes alternative arrangements can be made (ex. in lieu of holiday/public premium pay, workers can receive a substitute day off)*





WORKING? WHAT ARE YOUR **RIGHTS**?

Working for over a year with no vacation pay or time off for holiday?



- Time off is a worker's right and obligation
- Employers **must** pay vacation pay (at least 4% of wages, approximately 2 weeks of paid leave per year)
 - This amount increases after 5+ years of work with the same employer

Not entitled to breaks at work?



- Employers must give you a 30-minute unpaid break during each 5-hour period you work
 - Your break can be split into two 15-minute breaks

Signed a contract?



- If your contract removes basic rights provided to you under the Employment Standards Act (ex. the right to receive overtime pay), this agreement is null and void. These are **not rights** an employer can make employees waive/give up

Incorrectly classified as an independent contractor?



- An independent contractor is someone who is in business for themselves (meaning they are not covered by the ESA)
- Oftentimes, employees are **misclassified** as independent contractors
 - If this is the case, you may be entitled to more rights (including overtime pay) than your employer is providing





WORKING? WHAT CAN I DO TO PROTECT MY RIGHTS?

KEEP TRACK OF IMPORTANT DOCUMENTS

☐

Hours worked

☐

Signed contracts

☐

Paperwork
(paystubs, pay checks, etc)

☐

Screenshots
(texts, emails)

☐

Recordings of
phone calls

For issues related to the
Employment Standards Act (ESA),
you have **two (2) years** from the
alleged violation to file a claim

To better prepare to file a
claim or better understand
your options, connect with
CCNCTO to talk or receive a
translated ESA claim form



KNOW YOUR RIGHTS

AND
KNOW THAT THERE ARE

1

GOVERNMENT BODIES

there to HELP you enforce
your rights!

2

ORGANIZATIONS

like CCNCTO, here to fight
WITH you!

Connect with us!

Join CCNCTO to connect with
workers with shared experiences

- Learn how other workers resolved their issues
- Feel the **support** of the community



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Chinese Canadian National Council

TORONTO CHAPTER

全加華人協進會(平權會)多倫多分會



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WORKING? NOT A CANADIAN CITIZEN? DON'T HAVE PR? WHAT ARE YOUR **RIGHTS**?

Exploited at
work because
of your
immigration
status?



- Ex. not being paid minimum wage, employers threatening to report you to Canadian immigration agents
- Your immigration status does **not** give employers the right to exploit or threaten you
 - No matter what your status is, as long as your work is covered under the ESA, you are entitled to ESA rights. Even if you:
 - Overstayed your visa
 - Worked more than allowed on your permit
 - Do not have permanent status

Trapped at this workplace
because your employer took
your passport/work permit?



- Under the *Employment Protection for Foreign Nationals Act (EPFNA)*, your documents cannot be taken

Threatened for
trying to ask about
or assert your
rights as a migrant
worker?



- There are still minimum standards for foreign national workers. An employer is **not allowed** to penalize or intimidate you for this



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Many migrant workers and international students are fearful of reporting issues

- Though it is called the Ministry of Labour, Immigration, Training and Skills Development, the Ministry does **not generally** investigate a worker's immigration status
- In most cases of workplace violations, a Ministry agent should not ask questions about your status
 - *I.e. Filing an ESA complaint should not generally impact your immigration status*

For issues related to the Employment Protection for Foreign Nationals Act (EPFNA), you have **3.5 years** from the alleged violation to file a claim

- Please note that this is the **usual** amount of time folks have to claim, but time limits under the EPFNA may vary depending on the type of violation

Connect with us!

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THINGS TO KNOW ABOUT FILING AN ESA CLAIM

**Your employer
cannot punish you
for filing an ESA
claim**



- Your employer will be given details about your ESA complaint
- It is illegal for employers to threaten, discipline, or punish you for trying to enforce your ESA rights

**Translation
services are
available**



- You need to let the Ministry of Labour know that you require language interpretation services

Fees to file:

Free

Penalty for losing:

No penalty

Maximum monetary award:

No limit

How long it will take:

6-9 months, approximately

Time limit to file a claim:

2 years

Collection when a case is won:

The Ministry of Labour and the Ministry of Finance will take steps to try to make sure your employer pays the money you are owed if you win



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THINGS TO KNOW ABOUT FILING AN ESA CLAIM PROCESS AND TIMELINE

ESA Claim (online, mail, or fax)



ESO Level 1

- At this step, your claim will be reviewed to see if any information is missing. If anything is missing, you will have **15 days** to provide the information
- Your employer will be notified about the complaint. Some steps for resolution may be available, depending on the nature of the issue



ESO Level 2

- If resolution was not possible in Level 1, a different ESO will conduct an investigation
- This includes
 - Looking at all the evidence provided
 - Connecting with your employer to prove their position
 - Speaking to you more about your case



Order to Pay or Refusal to issue Order to Pay

- The Ministry is in charge of making your employer pay you. If your employer **does not pay** after an order to do so, contact the ESO
- **If you are unsatisfied from here**, you can have your case re-reviewed. This is called an appeal to the Ontario Labour Relations Board (OLRB)



Application for Review to Ontario Labour Relations Board

- This application must be made **within 30 days** of the ESO decision
- The employer also has a right to appeal an ESO decision within 30 days
- **Next steps**
 - Labour Relations Officers Meeting
 - OLRB Hearing





THINGS TO KNOW ABOUT FILING AN ESA CLAIM

CLAIMS ARE INVESTIGATED IN THE ORDER THAT THEY ARE RECEIVED

After submitting a claim, you receive a confirmation and are assigned a **claim number**

- With this number, you can sign onto the Ministry's claimant portal to
 - Continue your claim
 - Check the status of your claim
 - Upload documents to your claim

The amount of time this process takes varies, but the investigation process often takes several months

- Estimates range from 3-9 months or longer

In most cases, a claim is assigned to an early resolution officer (ERO) for initial investigation

If not resolved by an ERO, the claim will then be assigned to an employment standards officer (ESO)

Delays with processing your claim **may occur** if you **do not have** all correct and supporting documents filed



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How long it will take:	6-9 months, approximately
Time limit to file a claim:	2 years
Collection when a case is won:	The Ministry of Labour and the Ministry of Finance will lead collection

PROCESS AND TIMELINE

- 1 **ESA Claim**
- 2 **ESO Level 1**
- 3 **ESO Level 2**
- 4 **Order to Pay or Refusal to issue order to pay**

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