



## WHO IS A CARE WORKER?

Care workers work in private homes. They work directly for the person who owns or rents the home. They are not employed by a business or agency. Some care workers are migrants who come to Canada through the live-in caregiver program, while others are not.

Care workers are hired to do many household tasks, including cleaning and housekeeping. They may also provide care, supervision, or other assistance to children, the elderly, or people with disabilities. If you work in a long-term care home or babysit, then you would not be a care worker.

### **In Ontario, the *Employment Standards Act* protects non-unionized workers.**

If you are working in Ontario as a care worker, you have basic rights. *The Employment Standards Act* covers all workers, no matter what your immigration status is. The Ministry of Labour is responsible for making sure these employment rights are respected. Workers can file claims with the Ministry of Labour to get their rights enforced. Below is a basic overview of your rights at work.

## PAY

You must be paid at least minimum wage for every hour you work. As of January 1, 2018, the minimum wage is \$14.00 per hour. Your employer must provide you with a pay slip each pay period that shows your pay, how many hours you worked, and any money deducted from your pay (such as taxes).

In Ontario, employers of live-in care workers can deduct money for a decent private room and meals, but only up to a certain amount. Your employer can deduct from your pay:

- \$31.70 per week for a private room.
- \$0.00 per week for a non-private room.
- \$53.55 per week for meals (or \$2.55 per meal).
- \$85.25 per week for both a private room and meals.

The private room must have basic furniture, clean bed linen and towels, access to a proper toilet and washroom, and be fit for humans to live in. Your employer cannot deduct money for damage to the room.

## HOURS OF WORK

Normally, you cannot be scheduled to work more than 48 hours per week. If your employer wants you to work more than 48 hours, they must ask you to sign a written agreement. You have the right to refuse. If you sign the agreement, you can cancel it later by giving your employer 2 weeks' notice.

### **Overtime**

Every hour you work after the first 44 hours in a week is overtime. You should receive 1.5 times your regular pay for these overtime hours. Or, you can agree in writing to take paid time off instead. If you take time off, you should get 1.5 paid hours for each hour of overtime. So, if you make \$14.00/hour and work 50 hours in a week, you should be paid \$21.00/hour for six hours – OR you can take off 9 hours from work instead.

## Breaks and rest periods

You cannot be required to work more than 13 hours in one day. This includes a 30-minute, unpaid eating break for every 5 hours you work. You can choose to take this 30 minutes as two 15-minute breaks.

## WHAT COUNTS AS WORK?

You should be paid for all the hours you work. If you cannot leave the workplace, then this may be considered working hours. For example, if you are caring for a child, you should be paid for all the hours that you are responsible for the child. If you eat while taking care of the child, this does not count as a break.

## LEAVES

If you've worked for the same employer for at least two weeks, then you have the right to unpaid time off:

- **Sick Leave:** 3 days for your own sickness, injury or medical emergency.
- **Family Responsibility Leave:** 3 days for the sickness, injury, medical emergency, or urgent matter of family members.
- **Bereavement Leave:** 2 days for the death of a family member.

Your employer can ask you for proof that you need to take a leave (for example, a doctor's note). You should not lose your job for taking one of these leaves. There are more leaves for other situations including pregnancy, family caregiving, critical illness, and domestic violence.

## PUBLIC HOLIDAY PAY

There are 9 public holidays in Ontario: New Year's Day, Family Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving, Christmas Day, Boxing Day. If you work your regular shifts before and after a public holiday, you get bonus "public holiday" pay on top of your weekly pay. If you work during a public holiday, you should be paid 1.5x your regular pay and you can take off a different day with public holiday pay.

## VACATION & VACATION PAY

If you've worked for the same employer for at least 1 year, you should get 2 weeks of paid vacation during that year. Or, your employer can pay you 4% vacation pay for every dollar you earn on your paycheque. If you work for at least 5 years, you should get 3 weeks vacation or 6% vacation pay. If you leave a job without taking all your vacation for that year, you should get any leftover vacation pay on your last pay cheque.

## TERMINATION

Your employer can end your employment without notice if you've worked less than 3 months. After 3 months, they must give you notice in writing. If you do not get notice, you should get termination pay instead. The amount of notice or termination pay you get depends on how long you have worked for the employer, up to 8 weeks' worth of wages. Your employer should also give you your Record of Employment (ROE), unpaid vacation pay, and any unpaid wages.

## REPRISALS

It is illegal for your employer to fire you, reduce your hours, or punish you for asking about your employment rights. This includes bringing up safety or discrimination issues in the workplace. If you think your employer is punishing you for asking about your rights, you can file a claim with the Ministry of Labour.

## EMPLOYEE OR INDEPENDENT CONTRACTOR?

Sometimes employers call employees “independent contractors” to avoid their responsibilities. Independent contractors are not protected by the *Employment Standards Act*. This is illegal. You may be an employee and not an independent contractor if:

- You get training from your employer.
- Your employer supervises your work.
- You do not control your hours of work or pay.
- Your employer provides you with tools or equipment (e.g. vacuum cleaner, kitchen appliances).

If you think you are an employee and not a contractor, you can file a claim with the Ministry of Labour.

## DISCRIMINATION

You have the right to a workplace free from discrimination and harassment under the *Human Rights Code*, regardless of your immigration status, race, gender, or age, among other things. Discrimination means the unfair treatment of a person or a group. Harassment means ongoing unwelcome behaviour. If you feel like you are being discriminated against, call the Human Rights Legal Support Centre at 1-866-625-5179.

## INJURED AT WORK?

Most workers who get hurt or sick because of their job can get workers’ compensation benefits. This is financial assistance that you can receive if you have to take time off work to heal from a workplace injury.

The Workplace Safety and Insurance Board (WSIB) is the government body that runs the workers’ compensation system. It does not matter if the workplace injury was your fault or if your employer says they do not pay into workers’ compensation. If you were hurt at work, the WSIB can:

- Pay you if you cannot work because of your injury.
- Pay for healthcare you need to treat the injury.
- Help you return to a job that you can do safely with your injury.

You can receive benefits even if you are in the province without a work permit or immigration status.

## EMPLOYMENT INSURANCE (EI)

Employment Insurance is your right. This insurance fund provides you with benefits for a certain number of weeks if you lose your job or have to take time off work because you are sick, have a child, or are caring for a family member. To get EI, you usually need to have worked between 420 and 700 hours in the past year, depending on where you live. Accessing Employment Insurance benefits will not negatively affect your permanent residency application. It is a benefit plan that you contribute to with each paycheque.

You can apply online or at your nearest Service Canada office. You should apply within 4 weeks of your last day of work. It is a good idea to apply as soon you stop working. You must be able to show Service Canada that it was not your fault that your last job ended, or that you were forced to quit. It helps to write a letter of

explanation about what really happened and add it to your EI application. You may qualify if you are laid off but still have a valid work permit while you are looking for a new job.

If you take a leave from work because of sickness or injury, to care for your newborn baby, or to care for a family member who is very sick and at risk of death, you could be eligible to get special EI benefits. You must have worked at least 600 hours in the last year to be eligible for these benefits.

**Maternity benefits** are paid to the mother for up to 15 weeks. You may start benefits up to 12 weeks before you expect to have your baby, but no longer than 17 weeks after the date your child is born.

**Parental benefits** can be paid to one or both parents for up to 35 weeks altogether. You can only apply after your child is born. You can receive parental benefits within 52 weeks of your child's birth or an adoption.

**Caregiving benefits** help you take time off from work to care for someone who is critically ill or injured. If caring for children, you can receive up to 35 weeks. If caring for an adult, you can receive up to 15 weeks.

**Sickness benefits:** If you are unable to work because of injury or illness, you could receive up to 15 weeks. You must be in Canada and provide medical evidence to receive sickness benefits.

⚠ You can receive some of these leave benefits while you are outside of Canada, but you need to have a valid work permit. Get assistance to help you apply.

## PROTECTING YOURSELF

Workers often fear that their employers will punish them if they fight for their rights. But remember, it is illegal for an employer to fire or penalize a worker for speaking out about violations at work!

Here are some basic tips to protect yourself:

- Your employer or the government does not need to know where you live. The employer only needs an address to send you information like your Record of Employment or tax information. You can use a different address if you don't feel safe giving out this information. Be sure you only share details about your immigration status with people you trust.
- Keep a diary of information relating to all the hours you work, the wages you receive, and any other details about your working conditions that you think are important. Keep your employment contract.
- Collect as much information on your employer as possible. It will make it easier to track them down if they don't pay you.
- Be aware of deadlines for filing claims with the Ministry of Labour.
- If you are leaving the country, file your claim before you leave. You should leave your contact details so the Ministry of Labour can call or email you when you are out of the country. The Ministry can still make your employer pay and can send you any money they collect even if you are not in Canada.

## GET SUPPORT

You are not alone! You can get assistance and work with others to defend your rights at work! It is often difficult to take action by yourself. That is why Care Workers are joining together to make changes collectively so that workers will have stronger protections at work, no matter where they work.



Caregivers  
Action Centre  
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Have a problem at work or questions about your rights? Contact us at 647-782-6633 or email at [info@caregiversactioncentre.org](mailto:info@caregiversactioncentre.org)

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