



This factsheet has been prepared for general information purposes. It is not a legal document. Please refer to the *Employment Standards Act* and Regulation for purposes of interpretation and application of the law.

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Employment Standards Self-Help Kit

Employees who have an employment standards problem are required to try and resolve the problem directly with their employer by using the Employment Standards Self-Help Kit.

When an employee has completed the Self-Help Kit, he/she will send the employer:

- A standard letter from the Employment Standards Branch;
- Either a Request for Payment form or a Problem Description form;
- A factsheet on the Complaint Resolution Process.

The employee may also include additional information or evidence to help the employer understand the problem.

When an employer receives a Request for Payment or Problem Description form:

When an employer receives one of these forms it means an employee or former employee has used the Self-Help Kit and is attempting to correct a problem under the *Employment Standards Act*.

The employer is expected to:

- Review the information sent by the employee;
- Contact the employee to resolve the situation or pay money owing directly to the employee.

An employer can contact the Employment Standards Branch information line or website to obtain more information on the requirements of the Act and how to respond.

If an employer does not respond to the employee within 15 days, the employee may file a complaint with the Employment Standards Branch.

If an employer agrees with the request:

If an employer agrees with what the employee is asking for, the employer should pay the money directly to the employee or otherwise correct the problem.

If a payment is made, and deductions are taken for EI, CPP, income tax, etc., the employer must provide a written explanation of these deductions.

If an employer does not agree with the request:

If an employer does not agree with the employee's claim, the employer should respond in writing, explaining why.

If an employer believes the employee is owed less than he/she is asking for and the employer wants to pay this amount to the employee, the employer should send a cheque to the employee along with a written explanation.

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An employee who accepts a partial payment does not lose the right to file a complaint.

If an employee files a complaint:

If an employee files a complaint with the Employment Standards Branch the employer will be notified and advised what information is required.

The parties may be provided with an opportunity to resolve their dispute with the help of a Branch mediator.

If this is not successful, they may be required to attend a hearing so both sides can present evidence and provide witnesses.

In certain circumstances an investigation will be conducted.

If the matter is not resolved between the parties, a determination will be issued. The employer will be required to pay any outstanding wages along with a mandatory penalty for each contravention of the Act.

Circumstances where the Self-Help Kit is not required

The Self-Help kit is not required in certain circumstances, such as the following:

- The employee is under the age of 19;
- The employee alleges a contravention of a leave provision of the Act (pregnancy leave, parental leave, family responsibility leave, compassionate care leave, bereavement leave or jury duty);

- The employee has language or comprehension difficulties that would make the use of the Kit difficult;
- The employer may be insolvent;
- The landlord has locked the employer's doors;
- The employee is a farm worker, textile or garment worker or domestic;
- The employee has already sent a letter to the employer setting out the problem and requesting a resolution;

Time limits for filing a complaint

If an employee is still employed by an employer, a complaint must be filed within six months of an alleged contravention. If the employee is no longer employed, a complaint must be filed within six months of the last day of work.

If an employee is nearly out of time for filing a complaint before using the Self-Help Kit, he/she should file a complaint. The Branch will not act on the complaint until the employee advises that he/she used the Self-Help Kit and was not successful.

The date the employee filed the complaint is used to determine whether the complaint was filed within the time limit, even if the complaint was filed before the Self-Help Kit was used.