



Ministry of Labour, Citizens' Services and Open Government

Employment Standards Act

Self-Help Kit

The **Self-Help Kit** (the Kit) is designed to help employees and employers solve workplace disputes quickly and fairly. This is the **first step** in trying to resolve a dispute about outstanding wages. The Kit provides you and your employer with information on basic employee/employer rights and responsibilities in the workplace. Included are a "Request for Payment" form and a letter from the Employment Standards Branch for you to give to your employer.

If there is no resolution of the problem, you may then choose to file a complaint with the **Employment Standards Branch**. Using the Kit **does not mean** a complaint has been filed or accepted by the Employment Standards Branch. You may file a complaint up to six months from when the problem took place or your employment ended.

If you are within 30 days of the end of the six-month period you should file your complaint with the Employment Standards Branch and then use the Kit to try to resolve the problem. If you work under a union collective agreement you should seek assistance from your union.

You are not required to use the Self-Help Kit if:

- You are under the age of 19;
- Your complaint is related to a leave provision of the Act (pregnancy leave, parental leave, family responsibility leave, bereavement leave, compassionate care leave, reservists' leave or jury duty);
- The business has closed or the landlord or bailiff has locked the doors; or you are concerned that assets may be removed;
- You are a farm worker, textile or garment worker, or domestic;
- You have significant language or comprehension difficulties; or
- You provide a letter that you have already sent to the employer identifying the issue or dispute under the Act and requesting a resolution.

For more information, contact the Employment Standards Branch Information line at: 1-800 663-3316 (toll-free in B.C.), or (250) 612-4100 in the Prince George area or from outside the province.

If you are not required to use the Kit for one of the reasons listed above, or if you were unable to resolve your problem by using it, you may file a complaint with the Employment Standards Branch. Fill out a **Complaint and Information Form** available at our offices (addresses on page 3) or on our website at www.labour.gov.bc.ca/esb/. Mail or hand-deliver it to one of our offices or submit it electronically using the instructions on the website.

GETTING STARTED

Follow These Three Steps:

1. Review the Problem and Outline Your Claim

Identify what wages you feel are owing to you and why. Review the **factsheets** which relate to your claim. They are available on our website or at Employment Standards Branch offices. Ensure the problems you have identified are covered by the *Employment Standards Act* by answering the following two questions:

Question 1: Does the problem fall under the *Employment Standards Act*? (For example, is it in one of the following areas?)

- You were not paid money for hours you worked.
- You were not paid overtime.
- You were paid less than you thought you should be.
- Money was deducted from your pay cheque to pay for the employer's business costs (i.e. Dine & Dash).
- You were not paid for statutory holidays.
- You did not get meal breaks or proper time off between shifts.
- You did not get proper leave.
- You did not receive minimum daily pay.
- You did not get annual vacation or vacation pay.
- You did not get notice of termination or pay when your employment was ended.
- A talent agency took more than 15% from your pay.
- You had to buy your uniform or pay for cleaning it.

Question 2: Has the problem taken place within the past six (6) months?

OR

If you no longer work for the employer, has it been less than six (6) months since your last day worked?

If you answered **YES** to **BOTH** questions, your problem is covered by the Act. If you answered **NO** to either question, the problem is not covered by the Act.

2. Complete the Request for Payment Form

This form is important. You will be calculating what you believe you are owed, and sending it directly to your employer. Fill out only the sections that apply to your problem. Add additional pages or calculations on separate pages if necessary to fully explain your claim. Sign your form and include the date and contact information.

3. Send Your Employer the Following Information:

- a. **Information Notice to the Employer from the Employment Standards Branch** (included in the Kit). Date this letter.
- b. Your completed **Request for Payment** form.
- c. Include our **factsheet on Complaint Resolution** (included in the Kit). Include the **Guide to the Employment Standards Act** or any other **factsheets** that relate to the problem.
- d. Include any information that has to do with the problems you identified, and that may help clarify or resolve the dispute.

Keep a copy of the Request for Payment Form. You can hand-deliver, mail or fax your package to your employer. Your employer will have 15 days to respond. If they agree with you, they will pay you directly, and your dispute regarding employment standards will be resolved.

What If You And Your Employer Do Not Agree?

If you and your employer don't solve the problem, or if your employer does not respond to your request within 15 days, you may file a **complaint** with the Employment Standards Branch. Complaint forms are available at our offices or on our website.

To assist in processing your complaint, please enclose any other records you may have, including hours of work, pay stubs, a copy of the federal Record of Employment form, letters from your employer, etc.

NOTE: The Employment Standards Branch provides information, but does not provide legal advice.

Where to Send your Complaint:

Langley

A207-20159 88th Avenue
Langley, BC V1M 0A4
Phone: 604 513-4635
Fax: 604 513-4622

Prince George

102 -1577 7th Avenue
Prince George, BC V2L 3P5
Phone: 250 565-6120
Fax: 250 565-7110

Nanaimo

2nd Floor-6475 Metral Drive
Nanaimo, BC V9T 2L9
Phone: 250 390-6186
Fax: 250 390-6195

Kelowna

102-1690 Powick Road
Kelowna, BC V1X 7G5
Phone: 250 861-7404
Fax: 250 861-7428

Dawson Creek

1201-103rd Avenue
Dawson Creek, BC V1G 4J2
Phone: 250 784-2390
Fax: 250 784-2394

Victoria

200-880 Douglas Street
Victoria, BC V8W 2B7
Phone: 250 952-0469
Fax: 250 952-0476

Nelson

310 Ward Street
Nelson, BC V1L 5S4
Phone 250 354-6550
Fax: 250 354-6692

Terrace

108-3220 Eby Street
Terrace, BC V8G 5K8
Phone: 250 638-6525
Fax: 250 638-6528

Richmond

250-4600 Jacombs Road
Richmond, BC V6V 3B1
Phone: 604 660-4946
Fax: 604 713-0450



Ministry of Labour,
Citizens' Services and
Open Government

Employment Standards
Branch

Date _____

Information Notice to the Employer from the Employment Standards Branch

The Employment Standards Branch encourages employers and employees to resolve their disputes over the payment of wages or other issues under the *Employment Standards Act* and Regulation without direct government intervention. The Branch's role is to:

- Ensure compliance with the *Employment Standards Act*;
- Facilitate the settlement of complaints;
- Adjudicate a solution to disputes when necessary.

Your employee or former employee believes he/she has a problem under the *Employment Standards Act*, and by using the employee Self-Help Kit is attempting to resolve this dispute without Branch intervention. The following attachments are included:

- Employment Standards Complaint Resolution Factsheet.
- Employment Standards Factsheets or Guide to the *Employment Standards Act*.
- Request for Payment form, and any other information related to this dispute.

If you agree you owe your employee or former employee wages, please send them a cheque for the full amount owing less any statutory deductions. If the problem is about something other than wages you must comply with the requirements of the *Employment Standards Act*. If you do not **respond to the employee within 15 days**, a complaint may be filed with the Employment Standards Branch.

If you have any questions about minimum standards of employment or you need further clarification on the complaint resolution process, please contact our Employment Standards Branch Information Line at 1 800 663-3316 or (250) 612-4100 or refer to the Complaint Resolution Factsheet and the B.C. *Employment Standards Act* available at www.labour.gov.bc.ca/esb on the Internet.

If the Employment Standards Branch deems it necessary to issue a determination that an employer has contravened the legislation, there will be a mandatory penalty.

Thank you for your cooperation.

SEND THIS PAGE TO YOUR EMPLOYER REQUEST FOR PAYMENT

TO: **(Employer Information)**

FROM: **(Employee Information)**

(Name)

(Name)

(Company)

(Address)

(Address)

(City)

(City)

(Province, Postal Code)

(Province, Postal Code)

(Contact: Phone, Mail, Fax, e-mail etc.)

(Contact: Phone, Mail, Fax)

According to the B.C. *Employment Standards Act*, I believe I am owed the following:

The *Employment Standards Act* allows wages to be collected for the last six months of employment. For people who are still employed, wages can be recovered for the six months prior to the complaint being filed with the Branch. (Use additional pages to provide details of days and hours, etc.)

A. REGULAR WAGES: From _____ To _____

Rate of Pay	Total Unpaid Hours	Wages Owing
\$		= \$

B. OVERTIME WAGES: From _____ To _____

Rate of Pay	Total Unpaid Hours	Wages Owing
\$		= \$

C. STATUTORY HOLIDAY PAY:

Statutory Holiday (List specific days)	Average day's pay for statutory holiday	Plus 1.5 times your regular wage for first 12 hours worked + double time after 12 hours	Less any wages paid for the day	Equals statutory holiday pay owing
Total Owing \$				

SEND THIS PAGE TO YOUR EMPLOYER

D. COMPENSATION FOR LENGTH OF SERVICE (if no written notice of termination):

Based on average weekly wages (**excluding overtime**) earned in the last eight weeks of employment. If hours of work were reduced towards the end of employment, use the most recent eight weeks where normal hours were worked.

Date hired: _____ Last day worked: _____

Regular wages for last eight (8) weeks of employment: \$ _____

Divide that by eight (8) to get an average week: \$ _____

Length of Employment (years or months)	Weeks of Entitlement	Average Weekly Wage - last 8 weeks	Amount owing
	Week(s)	X \$ /week	= \$

E. VACATION PAY: From _____ To _____

The first line is for outstanding vacation pay not paid on wages earned while employed. The second line is for vacation pay payable on amounts claimed in sections A – D above.

Rate of Vacation Pay	Total Wages Earned	Vacation Pay Owing
%	X	= \$
Rate of Vacation Pay	Total from Sections A – D	Vacation Pay Owing
%	X	= \$

F. OTHER ISSUES: Please explain; include additional pages or calculations if needed.

Other Amount Requested:

\$

I am requesting a total (items A through F) payment of: _____

Please respond to this request **within 15 calendar days** of the date you receive this form. If you fail to respond, or if we are unable to resolve this matter, I may file a complaint with the Employment Standards Branch of the Ministry of Labour and Citizens' Services.

Sincerely,

Signature

Date

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.

February 2010

Complaint Resolution

The Employment Standards Branch encourages employees and employers to solve problems without immediate government intervention. If the parties cannot resolve their problem themselves, the Branch will try to facilitate a resolution or, if necessary, will issue a decision.

Understanding rights and responsibilities

The *Employment Standards Act* and *Regulation* set out minimum workplace standards for most employees in British Columbia. Some professionals are exempt from all or part of the Act. Some sectors and industries are subject to specific employment standards provisions which only apply to them.

Information about employment standards, including a guide to the Act and factsheets on various subjects, is available from any Employment Standards Branch office or on the Branch website.

The Act sets a six-month time limit for filing complaints. It also sets a six-month limit on the time period the Branch can go back to see whether an employer owes money to an employee.

Using the Self-Help Kit

The first step an employee takes to resolve a dispute over the payment of wages or other issues is to contact the employer directly by using a Self-Help Kit. The Kit helps the employee to define the problem and identify the desired solution by:

- Deciding whether the *Employment Standards Act* applies to his or her situation;
- Assessing whether the employer is contravening the Act;
- Calculating how much money is owed; and

- Making a written request to the employer to pay money owing or make changes required under the Act.

If the employer agrees with the employee's request, money can be paid directly to the employee. At this point the matter is resolved.

Self-Help Kit not required

In certain circumstances, an employee will not be required to use the Kit. Examples are:

- The employer's business is closed;
- The matter involves a person under the age of 19;
- The complaint is related to a leave provision of the Act (pregnancy leave, parental leave, bereavement leave, compassionate care leave, family responsibility leave or jury duty);
- The employee is a farm worker, garment or textile worker, or domestic;
- The employee has significant language or comprehension difficulties; or
- The employee has already sent a letter to the employer attempting to resolve the issue.

Filing a Complaint

If an employee is unable to resolve a dispute by using the Kit, if an employer does not respond, or if an employee is not required to use the Kit, an employee may make a complaint to the Employment Standards Branch.

Employment standards complaints must be in writing and can be faxed, mailed, dropped off in person or submitted online. The complainant should provide any available evidence that relates to the complaint.

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Dispute resolution

Although some matters are resolved through investigation, most are resolved through a process of education, mediation and/or adjudication.

Investigation

If a matter is referred to investigation, the investigating officer will gather information and evidence from both parties. The officer will put each party's position and evidence to the other party for a response. The officer will try to resolve the complaint informally, but if that is not possible, the officer will make a decision and issue a Determination.

Education

Employment Standards Branch staff will review the complaint and the evidence that has been provided. The Branch will contact the parties to gather more information and to explain the provisions of the Act. If the employer resolves the complaint at this point and pays any money owing, no further action will be taken and the file will be closed.

If the complaint is not resolved, it will be referred to mediation. Both parties will be asked to provide anything they think will be helpful to resolve the dispute, such as payroll information, records of hours worked and wages paid, and documentation of disciplinary actions.

Mediation

An officer of the Branch will conduct a mediation, which is an informal meeting between the employer and the employee. It will be held in person or by teleconference. (See *Employment Standards Mediation* factsheet)

If the parties resolve their dispute, the officer conducting the mediation will help them draft a

"Settlement Agreement" that both the complainant and the employer will sign. Once signed, the agreement is binding on the parties. If it is not honoured, it can be filed in Supreme Court and enforced as a judgment of the Court.

Even if mediation does not resolve the dispute, it may still help the parties clarify the issues, understand each other's point of view, and identify what facts are agreed upon and what issues remain in dispute.

Adjudication Hearings

If the complaint is not resolved through mediation, the Branch will schedule an adjudication hearing to be conducted by an officer. If a hearing is scheduled, both parties will be required to attend along with any necessary witnesses. The hearing may be held in person or by teleconference (See *Adjudication Hearings* factsheet.)

Determinations

If a matter is not resolved informally during an investigation, or at any time during the mediation/ adjudication process up to the end of the adjudication hearing, the officer conducting the adjudication will issue a written decision called a Determination. If the Determination finds that money is owing to the complainant or that the employer has otherwise contravened the Act, it will order the employer to pay the amount owing, cease contravening the Act and pay one or more mandatory penalties.

If an employer does not pay the amount ordered, the Determination can be filed in Supreme Court and enforced as a judgment of the court. This may include turning the matter over to a Court Bailiff for collection.

Appeals

A Determination can be appealed to the Employment Standards Tribunal. More information on appeals is available on the Tribunal website at www.bcest.bc.ca.

Tell us what you think!

We welcome feedback on how to make the **Employment Standards Self-Help Kit** better and easier to use.

If you are having difficulty using the Kit, please contact our toll-free information line at 1 800 663-3316 within British Columbia, or 250 612-4100 in the Prince George area or from outside the province. You can also contact the nearest Employment Standards Office at the phone number listed on page 3.

Where did you get your copy of the Self-Help Kit?

- Employment Standards Office Printed from website Government Agent Office
 Other _____

The instructions provided in the Kit were:

- Easy to follow Somewhat difficult to follow Very difficult to follow

The amount of information in the Kit was:

- Too much About right Too little

The instructions provided to help with the wage calculations on the 'Request for Payment' form were:

- Very Helpful Somewhat Helpful Not Helpful

Suggested improvements / additions:

Please indicate if:

- Full or Partial payment received from employer resulted from using the Self-Help Kit
 Did not resolve this issue:
 Complaint filed
 Complaint **not** filed

If not, why: _____

Thank you! Your comments are appreciated and will help us improve the Kit.

Please fax to Employment Standards Headquarters in Victoria at 250 356-1886 or drop off or mail to any ESB office listed on page 3 of this Self-Help Kit.