



Canada Labour Code Part III



Pay Administration: Record Keeping

- Employers required:
 - To keep record of an employee's dates of employment (e.g., start & end) at least 36 months after termination date
 - To keep payroll records for at least 36 months after employee performs the work
 - Rates and frequency of pay (e.g., hourly, weekly, etc.)
 - Regulation 24 covers all record keeping requirements



Pay Administration: Pay Statement

- Required in writing to employee:
 - Period in which payment made
 - Number of hours for which payment made
 - Rate of wages
 - Details of permitted deductions
 - Actual sum being received by employee





Termination and Unjust Dismissal

Information Regarding Lay-Offs

- Lay-offs are addressed in Regulation 30 of the Canada Labour Code
 - Lay-offs can turn into terminations and may result in requirement to pay Termination/Severance Pay
- An employee's continuity of employment is unaffected even when a lay-off has occurred
- Employer's responsibility is to pay employees for wages earned upon return to work
- Important for employers to keep records of the employee's lay-off and recall dates



Termination from Employment

- Lay-off IS considered to be a termination:
 - When employer has no intention of recalling employee to work
- Record of Employment
 - Responsibility of Service Canada
- Vacation Pay
 - Payable within 30 days of dismissal from employment



Individual Termination

- If employer terminates an employee who has completed at least three months' employment:
 - Employer must give two weeks' written notice – Termination Notice, or two weeks' pay in lieu of notice – Termination Pay
 - Employment conditions do not change during notice period
 - Termination notice and pay not required if termination is for just cause
- **Employee not required to give notice**



Severance Pay

- If employer terminates employee with 12 months' employment, employer must pay whatever sum is greater, based on employee's regular rate of pay for regular hours of work:
 - Two days pay per completed year of employment OR
 - Five days wages
- Severance pay not required if dismissal for just cause



Just Cause and Progressive Discipline

- Employer must:
 - Clearly communicate expectations of employees and what will happen if not met
 - Take measures (actions) to help employee correct inappropriate behaviour as opposed to punishment
- Progressive discipline process decided by employer:
 - Verbal warning and written warnings
 - Suspension (may vary in length) and/or final warning



Unjust Dismissal Complaint: Process

- Employer must:
 - Give written reasons for dismissal
- Labour Program inspector's role to settle complaint:
 - May help parties settle complaint through mediation (alternative dispute resolution), or discussions in-person or over the phone
- If the inspector is unable to help parties settle complaint within reasonable time frame:
 - Complainant may ask that complaint be referred to adjudicator. Note: complaints on or after July 29, 2019, will be referred to the Canada Industrial Relations Board ("Board") for a hearing.
 - If no response received, complaint may be deemed abandoned



Unjust Dismissal: Complaints

- Employee must:
 - Have completed 12 months' continuous employment
 - Make their complaint within 90 days of dismissal
 - Make their complaint in writing
- Employee must not be:
 - A manager
 - Subject to collective agreement

Note:

- *Also applies to constructive dismissals*
- *Restriction on multiple recourses if Reprisal or Genetic Testing complaint was filed based on substantially the same facts*



Leave related to COVID-19 for up to 4 weeks

• As an employee working in a federally regulated workplace, you are entitled to up to 4 weeks of job-protected unpaid leave. You can take this leave as many times as necessary, if you are in one of the following situations:

have contracted or might have contracted COVID-19

have underlying conditions, are undergoing treatments or have contracted other sicknesses that, in the opinion of a medical practitioner, nurse practitioner, person in authority, government or public health authority, would make you more susceptible to COVID-19, or

have isolated yourself on the advice of your employer, a medical practitioner, nurse practitioner, person in authority, government or public health authority for reasons related to COVID-19

Leave related to COVID-19 for up to 42 weeks

• you must care for a child, who is under 12: because

Examples: their school or other facility is, for reasons related to COVID-19, closed, open only at certain times or open only for certain children; they cannot attend school or other facility as they contracted or might have contracted COVID-19; they cannot attend school or other facility as the child is in isolation on the advice of a medical practitioner, they cannot attend school or other facility as the child would, in the opinion of a medical practitioner or nurse practitioner, be at risk of having serious health complications if the child contracted COVID-19.

• you must provide care to a family member who requires supervised care because:

Examples: their day program is, for reasons related to COVID-19, unavailable or available only at certain times or for certain persons, or the facility is closed; the family member contracted or might have contracted COVID-19; they cannot attend their day program or facility as they are in isolation on the advice of their employer, a medical practitioner, nurse practitioner, person in authority, government or public health authority for reasons related to COVID-19; the care services that are normally provided to the family member at their place of residence are not available for reasons related to COVID-19

The Code does not provide for paid leave related to COVID-19.



New Leave Provisions

- Personal Leave
 - Eligible on first day, but leave paid after 3 months (first 3 days)
 - Max of 5 days per calendar year
- Leave for traditional Indigenous practices
 - At least 3 months continuous employment
 - Max of 5 days per calendar year, for:
 - Hunting
 - Fishing
 - Harvesting or gathering



General Holiday Pay

- Previously, only 9 General Holidays
- New General Holiday:
 - National Day for Truth and Reconciliation
 - Every year on September 30th
 - The National Day for Truth and reconciliation would give employees in the federally regulated private sector the opportunity to participate in educational and commemorative activities related to Indian residential schools and reconciliation.



Labour Program Contact

- For more information:
 - Toll-free: 1-800-641-4049
 - www.esdc.gc.ca/en/jobs/workplace/employment_standards/labour/index.page
 - #LabourStandards  @Labour_ESDC
- You can contact me at:
 - Siobhan.k.Hutchinson@labour-travail.gc.ca
 - 403-338-2764

