



Type of law:
CIVIL LAW

A 2015 Alberta Guide to the Law

EMPLOYMENT LAW



Student Legal Services
of Edmonton

COPYRIGHT & DISCLAIMER

GENERAL

All information is provided for general knowledge purposes only and is not meant as a replacement for professional legal advice. If you have a personal legal question that requires legal advice, please consult a lawyer.

COPYRIGHT

Copyright 2015, Student Legal Services of Edmonton. All rights reserved. Copying any material, in whole or in part, is prohibited unless prior consent has been obtained. Some material may be subject to copyright from an outside source and thus there may be different restrictions on the reproduction of this material.

LIMITATION OF LIABILITY

Student Legal Services of Edmonton is not liable for any loss or damage caused by an individual's reliance on information or material obtained from Student Legal Services of Edmonton. By accessing the information, individuals agree that any usage is at their own risk.

INFORMATION AND OPINIONS

In some instances, information obtained by Student Legal Services may have been provided by outside sources. Even with the high standards set by Student Legal Services of Edmonton, we accept no responsibility for the accuracy and reliability of the material. Opinions and Informations provided by third parties does not represent that of Student Legal Services of Edmonton.

IMAGES

Icons made by Freepik from www.flaticon.com.

Infographics sourced from Piktochart from www.piktochart.com.

EMPLOYMENT LAW

INTRODUCTION	1
Definition of an Employee	1
Employee Rights	1
HOURS OF WORK	2
Rest Periods	2
OVERTIME	3
DEDUCTIONS	3
HOLIDAY AND VACATION PAY	5
SICK DAYS	6
MATERNITY AND PARENTAL LEAVE	6
COMPASSIONATE CARE LEAVE	9
PAYMENT OF WAGES	9
UNSAFE WORKPLACES	11
TERMINATION, TRANSFER, AND DEMOTION	11
Just Cause	12
Termination Notice and Pay	12
Transfers and Demotions	13
Employee's Notice to an Employer	13
EMPLOYMENT STANDARDS	15
DISCRIMINATION	14
EMPLOYMENT INSURANCE	14
WORKERS' COMPENSATION	15
JOB TRAINING	16
MORE INFORMATION AND HELP	18

Minimum Employment Standards

Minimum Wage

\$11.20

EXCEPT
\$10.70/hour for employees serving liquor, \$446.00/week for salespeople, and \$2,127.00/month for domestic employees.

These Minimum Wage rates are effective as of October 1, 2015.

Overtime Pay

1.5x normal wage

EXCEPT:

When there is an overtime agreement between the employee and employer where instead of pay, the employee can take an amount of time off equal to the overtime worked (time lieu or flex time).

Vacation pay

If you have worked for an employer for at least one year, you are entitled to a minimum of 2 week of paid vacation. If you have worked for 5 or more years, you are entitled to a minimum of 3 weeks of paid vacation.

NOTE: both part-time and full-time employees should receive vacation time and vacation pay

Breaks

- At least 8 hours of rest between shifts
 - At least 30 minutes of rest (paid or unpaid) during shifts that are more than five hours long
 - 1 full day of rest in each 7 day period
- An employee may agree to work up to 24 days in a row. At the end of a 24-day period, the employer must provide at least four consecutive days of rest.

Maternity Leave

15 weeks

If you are pregnant, you can take maternity leave within 12 weeks of the due date for giving birth

You must have worked at your job for at least 52 weeks consecutively to be eligible

Parental Leave

37 weeks

Can be split between two parents

You must have worked at your job for more than 1 year.

You can take parental leave within 52 weeks after the birth or adoption of a child

Hours of Work

Maximum 12 hours/day

Must be paid for a minimum of 3 hours, even if you go home early

When should I be Paid?

At least once per month, and within 10 days of the pay period ending.

INTRODUCTION

Definition of an Employee

An employee is a person who does work for a wage or salary (*Employment Standards Code* s.1)

Not everyone who does work in exchange for money is considered an 'employee'.

Independent contractors perform a particular service for a price. For more information on whether a relationship is an employer-employee relationship or a contractor-customer relationship see the pamphlet from the Alberta Learning Information Service title "Employee or Contractor" which is available at: <http://alis.alberta.ca/pdf/cshop/contractor.pdf>

Employee Rights

The *Employment Standards Code* and *Employment Standards Regulation* ensure that employees in Alberta have certain minimum rights. These rights cannot be waived even if there is an agreement between employer and employee. Employees can always agree to have more rights than the minimums required by the *Employment Standards Code*, but any agreement to have fewer rights will be void (s.4 *Employment Standards Code*). For example, an agreement to be paid less than minimum wage would be void, but an agreement to be paid more than minimum wage would be enforceable.

The minimum rights may be different depending on the type of employment. For example, under the Alberta *Employment Standards Regulation* construction workers have certain regulations that apply specifically to them, such as vacation pay at a higher rate (6%, s.48 *regulation*) and no requirement that notice be given prior to your job ending or you leaving your job (*Employment Standards Code* s.5(1)).

NOTE: If you are a member of a union the terms of your collective bargaining agreement will have the rules of your employment. Consult your union shop steward for more information on the rules and terms of your collective agreement with your employer.

In Alberta, employees generally have the right to:

- a. Be paid minimum wage or greater
 - i) See the *Employment Standards Regulation* s.9 for the current minimum wage
- b. Be paid some form of overtime pay when working overtime hours.
- c. Know in advance when they have to work.
- d. Be paid at least monthly.
- e. Receive vacation pay.
- f. Receive holiday pay.
- g. Receive their full pay.
- h. Take maternity or parental time off.
- i. Receive notice before being terminated.
- j. Be paid when injured on the job.
- k. Not be discriminated against for the reasons listed in the *Alberta Human Rights Act*.

If the employer and the employee agree that there will be more rights than those listed in the *Employment Standards Code*, then the employee can enforce those rights (*Employment*

standards code s. 3(1)b). This is generally done through an employment contract. If you or another employee wish to dispute or enforce a terms of an employment contract it is important to tell the employer and take steps to enforce your rights under the employment contract.

It is best to make sure that all agreements are in writing. If the employment is for a fixed period of more than one year, the contract must be in writing and signed by both the employee and employer in order for it to be enforceable.

Consider consulting with a lawyer if you need help enforcing the terms of your contract, or understanding what they mean if you are uncertain. Civil Claims Duty Counsel and the Edmonton Community Legal Center are good options if you are unable to afford a lawyer and need legal advice for employment law or other civil matters. See the section titled More Information and Help for more information about how to access these resources.

HOURS OF WORK AND SCHEDULING



An employee cannot be required to work more than 12 hours in any 24-hour period unless there is an emergency (*Employment Standards Code s.16*). Employers should notify employees when they will be working by posting a schedule with the start and end to each shift in an area where employees can see it (*Employment Standards Code s.17*). There are some exceptions if the employer has a permit for extended work hours (*Employment Standards Code s.16*). Certain occupations are also exempted from the rules for hours of work and scheduling, they are listed in the *Employment Standards Regulation s.2(1)*.

Any changes to an employee's normal shift must be posted 24 hours before the change is to take place (*Employment Standards Code s.17*)

Rest Periods

An employer must allow an employee:

- At least 8 hours of rest between shifts (*s.17 Employment Standards Code*)
- At least 30 minutes of rest (paid or unpaid) during each shift that is more than five hours long (*Employment Standards Code s.18*)
 - Exception: If there is an emergency situation or it is not reasonable for the employee to take a break, the employee might not receive a rest period
- One full day of rest in each 7 day period (*Employment Standards Code s. 19*)
 - An employee may agree to work up to 24 days in a row. At the end of a 24-day period, the employer must provide at least four consecutive days of rest.

OVERTIME

Generally, an employee must be paid overtime when he/she works more than 8 hours in a day or more than 44 hours in a single week. The employee will always receive the greater total of overtime hours from either calculation (*Employment Standards Code s.21*).

For example, if an employee works five 10-hour days (50 hours), this could be calculated as either: 1) 6 hours of overtime above the 44 hour week; OR 2) 2 hours above the standard 8 hours each day, or 10 hours of overtime. Because the employee always receives whichever total is greater, the employee in this case will be paid for 10 hours of overtime.

An employee can work a compressed workweek, which means they work fewer days but more hours in each day. A compressed workweek must be scheduled in advance and be a maximum of 44 hours per week and 12 hours per day (*Employment Standards Code* s.20).

Amount of Overtime Pay

Employees must be paid at least one-and-a-half (1.5) times their regular wage for overtime pay (often called “time and a half”) (*Employment Standards Code* s.22).

An employee may agree to take time off instead of being paid overtime. For every hour of overtime worked the employee will be entitled to 1 hour off at a later time. This is often referred to as “flex time” or “time in lieu”. Time off in place of overtime pay must be taken within 3 months of the end of the pay period in which it was earned. The time off must be taken at a time that the employee would otherwise have worked. If the employee does not take the time off within 3 months, the employer must pay them for the overtime worked. If an employee worked overtime hours and quit or was fired before taking this time off, the employer must pay them overtime (*Employment Standards Code* s.23).

Exemptions from rules for hours of work and overtime pay

NOTE: Some employees are exempt from rules dealing with hours of work, rest periods, days of rest, and overtime pay (such as farm employees, certain types of salespeople, and managers/supervisors) (For a full list of all exemptions see *Employment Standards Regulation part 1* found here: <https://www.canlii.org/en/ab/laws/regu/alta-reg-14-1997/latest/alta-reg-14-1997.html>).

DEDUCTIONS

An employer must take off money from each pay cheque for Income Tax, Employment Insurance, and the Canada Pension Plan.

Additional money can only be taken from an employee’s earnings under certain conditions, such as written permission from the employee or a Court Order.

These deductions could be made for things like union dues, charitable donations, child support, and other amounts permitted by statute (*Employment Standards Code* s.12).



NOTE: An employer cannot deduct money for faulty workmanship. They also cannot deduct money for cash shortages/loss of property if someone other than the employee had access to the cash or property. (Ex. This means an employer can only deduct money an employee’s pay for a lost tool if only one employee had access to the tool) (*Employment Standards Code* s.12 (3)).

HOLIDAY AND VACATION PAY

Holiday Pay

Holiday pay is paid to employees who work on general holidays (aka statutory holidays). These general holidays are (s.25, *Employment Standards Code*):



New Year's Day	January 1st
Family Day	Third Monday in February
Good Friday	Friday before Easter
Victoria Day	Monday before or on May 25
Canada Day	July 1
Labour Day	First Monday in September
Thanksgiving Day	Second Monday in October
Remembrance Day	November 11
Christmas Day	December 25

To be entitled to holiday pay:

- The holiday must fall on a day when the employee has been scheduled to work (s.28 *Employment Standards Code*).
- The employee must have worked for the employer for at least 30 working days in the last 12 months (s. 26, *Employment Standards Code*)
- The employee must work all scheduled shifts the day before and the day after the holiday, unless the employer consented to the employee not working (s. 26, *Employment Standards Code*).
- The employee must not have refused to work if asked to (s. 26, *Employment Standards Code*).



If a general holiday falls during your yearly vacation, your employer must extend your vacation by 1 day with pay or give you another paid day off before your next yearly vacation (s.31 *Employment Standards Code*).



If you work on a general holiday that falls on a regular workday (a day you were already scheduled to work), then your employer must pay you your regular pay for the day. Also if you come into work on the general holiday your employer must also pay you your wage at a rate of time and a half for the amount of hours that you worked on the general holiday, in addition to your regular pay for the day. Your employer can also give you a full day's pay plus an extra day off instead of paying you the additional pay at time and a half (s.29, *Employment Standards Code*).

Even if you do not work on a general holiday that falls on a regular workday, you are still entitled to your regular wages for the day. (s.28, *Employment Standards Code*)

If you work on a general holiday that falls on a day that would not typically be a workday (a weekend for example), then you are entitled to be paid your wage at a rate of time and a half, but your employer does not have to pay you your regular pay on top of this amount (s.30, *Employment Standards Code*).

Vacation Time and Pay

Length of Employment	Minimum Amount of vacation Time and Pay
0-1 year	No time off until first year is finished, but still entitled to 4% of earnings as vacation pay during the first year.
1 year- 5 years	2 weeks time off and 4% of regular wage
5 years +	3 weeks and 6% of regular wage

If you have worked for an employer for at least one year, you are entitled to a minimum of 2 week of paid vacation per year. If you have worked for 5 or more years, you are entitled to a minimum of 3 weeks of paid vacation (*Employment Standards Code s.35*)



If you do not take your vacation days, then you are still entitled to vacation pay or 4% of your regular wages; this amount increases to 6% after 5 years of service (s. 40, *Employment Standards Code*). Vacation pay can be paid out at any time during the year, but it must be paid by the first payday after the start of your scheduled vacation (s.41, *Employment Standards Code*). So, if an employee takes a vacation they can be paid their regular wage while on their vacation or the employee may receive vacation pay on all paycheques throughout the year.



If an employee quits, is fired, or is laid off, the employer must pay vacation pay in the last cheque, no later than ten days after the last day of employment (s.10 *Employment Standards Code*). If you were employed for less than 1 year then you will receive 4% of your earnings for the period that you were employed as vacation pay when your employment terminates. If you are fired or quit after 1 year of employment you will receive the 4% of your earnings for the period that you were employed with that employer. In addition, if you were employed for greater than one year then you will receive 4% of what you would have earned had you remained employed with that employer for the remainder of the year (s.42, *Employment Standards Code*)

Your employer must give you your vacation in a single block of time. You can break your vacation time up into smaller periods if you request in writing and your employer agrees (s. 37, *Employment Standards Code*).

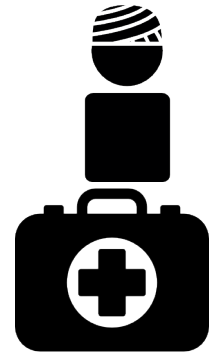
Always remember that these are the minimum rights guaranteed by the *Employment Standards Code* and *Regulation*. Employees cannot be given anything less, even if they agreed to it. Employees should always refer to their employment contract to ensure they are not entitled to more benefits than are listed here.

If you have not received vacation pay or any other pay that you are entitled to contact *Employment Standards* at (780) 427-3731.

SICK DAYS

There is no law that requires employers to provide sick days or pay for sick days. However, if the employee's employment contract states that they are entitled to pay for sick days then the employer will be required to provide it.

Refer to your employment contract to see if you are entitled to any sick days or pay for sick days, and what your employer's rules for sick days are.



MATERNITY AND PARENTAL LEAVE

MATERNITY LEAVE SUMMARY	
Who can take maternity leave?	Women who are pregnant.
When am I eligible?	After 52 weeks of full or part time employment
How long is it?	15 weeks.
When can maternity leave start?	Within 12 weeks of the due date.
Is it paid?	No, but you may be eligible for EI (employment insurance) special benefits.
How much notice should I give my employer?	6 weeks, but can be as low as 2 with medical documentation that shows a due date.
Will I have a job to return to?	Yes, your employer must have the same, or a similar position with the same or better wage and benefits available for you when you return.

A pregnant employee who has worked for the same employer, full or part-time for 52 weeks in a row, may take time off for a pregnancy (s.45, *Employment Standards Code*). She has a right to 15 weeks' unpaid maternity leave, which can start 12 weeks before the due date (s.46, *Employment Standards Code*).

The employee must be reinstated to her old job or a similar job with the same pay when she returns to work (s.53 *Employment Standards Code*).

A pregnant employee must give her employer written notice at least 6 weeks before the day she wants to start maternity leave or parental leave. If the employer asks, she must provide a medical certificate from a physician, showing the expected due date and certifying that the employee is pregnant (s.47, *Employment Standards Code*). If she does not give 6 weeks'

notice, she may give two weeks' notice with a medical certificate and a due date (s. 48, *Employment Standards Code*).

An employer may also give an employee written notice to take her maternity leave if the pregnancy will interfere with her duties, provided it is at least 12 weeks prior to the expected delivery date (s.49, *Employment Standards Code*). Employers do not have to pay pregnant employees for maternity leave the employer and employee have signed an agreement that the employee will get paid while she is on maternity leave.

Employment Insurance While Pregnant

A pregnant employee may be able to collect Employment Insurance (EI) “special benefits” while she is not working during maternity leave. She can collect a maximum of 15 weeks of EI benefit payments. She must have worked at least 600 hours in the last year to collect, and show that her weekly earnings have decreased by more than 40%. See the section on Employment Insurance for more information on how to apply for benefits.



In addition to maternity leave, pregnant women are also entitled to take parental leave.

Parental Leave

PARENTAL LEAVE SUMMARY	
Who can take parental leave?	A parent of a newborn or newly adopted child under the age of 18.
When am I eligible?	After 52 weeks of full or part time employment
How long is it?	35 weeks in total. This time can be split between the two parents.
When can parental leave start?	After the child is born or adopted.
Do I have to use it within a certain time?	Yes, parental leave must be used within 52 weeks of the birth or adoption of a child.
Is It paid?	No, but you may be eligible for EI (employment insurance) special benefits
How much notice should I give my Employer?	6 weeks
Can I share the parental leave with my partner?	Yes, but you should tell your employer if you will be doing this.
Can my partner and I take parental leave at the same time?	Yes, but it is still limited to 37 weeks in total between the two of you. Also, if you and your partner have the same employer the employer does not need to give you parental leave at the same time.

Will I have a job to return to?	Yes, your employer must have the same or similar position available for you when you return with the same or better wage and benefits.
---------------------------------	--

Parents are entitled to a maximum 35 weeks of parental leave; this may be taken by the mother or the father or shared if the employer is notified. Adoptive parents may also take 35 weeks of parental leave. Parental leave must be taken within 52 weeks of the birth or adoption of the child (s.50 *Employment Standards Code*). EI benefits for parental leave are the same as for maternity leave. To be eligible the employee must have 600 hours of insurable work, and at least 40% reduction in earnings. See the section on Employment Insurance for more information on how to apply for benefits.

COMPASSIONATE CARE LEAVE (s. 53.9, *Employment Standards Code*).

Employees who have worked for the same employer part time or full time for 1 uninterrupted year may be eligible to take up to 8 weeks of compassionate care leave in order to care for a family member who is at risk of death because of illness (s.53.9 (2), *Employment Standards Code*).

For these purposes family member is defined in s.51.4 *Employment Standards Regulation*,:

- Partner (Spouse or common-law partner);
- Child or child of a partner;
- Parent or the parent of a partner;
- Grandparent or grandparent of a partner;
- Partner of a grandparent;
- Grandchild or grandchild of a partner;
- Partner of a child or grandchild;
- Aunt, uncle, niece, or nephew of the employee or their partner;
- There are many other less common situations that count as a family member for the purposes of compassionate care leave, for the full list see the *Employment Standards Regulation* s.54.1 available at: <https://www.canlii.org/en/ab/laws/regu/alta-reg-14-1997/latest/alta-reg-14-1997.html>

The family member must be at risk of death in the next 26 weeks (as assessed by a physician) and the leave must be taken in those 26 weeks. The ill family members physician must provide a certificate that the family member is in danger of death within 26 weeks. The employee must provide this certificate to their employer. The certificate should also state that the ill family member requires the help of a family member. Except in emergency situations, this certificate should be provided prior to beginning compassionate care leave (s. 53.9 (6), *Employment Standards Code*).

The employee must be reinstated at the same or similar position with equal or greater pay when they return from compassionate care leave (s. 53.92, *Employment standards code*). The employee cannot be fired while on compassionate care leave (s. 53.91, *Employment standards code*).

Like maternity and parental leave, EI benefits are available for employees who are going on compassionate care leave. See the section on Employment Insurance for more information on how to apply.

COMPASSIONATE CARE LEAVE	
When am I eligible?	After 52 weeks of part time or full time employment
Who can take compassionate care leave?	Family members of a person who is in danger of death in the next 26 weeks because of serious illness
How long can compassionate care be?	8 weeks, the leave can be broken in two periods but must be taken in the 26-week period. A period must be a minimum of 1 week in length.
How much notice should I give my employer?	2 weeks notice, unless the circumstances make it impossible to give this much notice.
Do I need to give my employer any other documents?	Yes, you will need a certificate from the ill family member's physician certifying that the family member is in danger of death within 26 weeks and that they require the support of a family member.
Is it paid?	No, but you may be eligible for 6 weeks of EI benefits while on compassionate care leave.
Will I have a job to return to?	Yes, your employer has to provide you with the same or similar position with the same pay when you return from compassionate care leave. (53.92)

PAYMENT OF WAGES

Minimum Wage

Employees have the right to be paid at least minimum wage. In Alberta, an employee has the right to a minimum wage of \$10.20/hour, \$9.20/hour for employees serving liquor, \$406.00/week for salespeople, and \$1937.00/month for domestic employees. (*Employment Standards Regulation s.9*).



NOTE: As of October 1, 2015 minimum wage will increase in Alberta to \$11.20/hour, \$10.70/hour for employees serving liquor, \$446.00/week for salespeople, and \$2,127.00/month for domestic employees.

For the most up to date information of minimum wage see the *Employment Standards Regulation s.9* available at: <https://www.canlii.org/en/ab/laws/regu/alta-reg-14-1997/latest/alta-reg-14-1997.html>.

Generally, an employee must be paid for at least 3 hours every time they report for a shift, whether they are sent home or not (*Employment Standards Regulation* s.11)

There are some exceptions where certain types of employees do not need to be paid minimum wage.

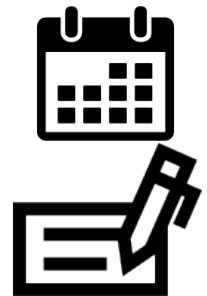
Exemptions from Minimum Wage (s.8 Employment standards regulation)

There are some exceptions to the minimum wage:

- a. Real estate brokers;
- b. Securities sale people;
- c. Insurance sales people paid entirely by commission;
- d. Students in work experience programs that have been approved by the Minister of Learning or Minister of Human Resources and Employment;
- e. Students in off-campus education programs specified in the *School Act*;
- f. Extras in a film or video;
- g. Counsellors or instructors at an educational or recreational non-profit camp for children or handicapped individuals or for religious purposes; and
- h. Farm employees

Time of Payment

An employee usually has the right to wages, overtime pay, and any other pay within 10 days after the end of each pay period (s.8 *Employment Standards Code*). Pay periods can be a maximum of 1 month long (s.7 *Employment Standards Code*).



A statement of earnings must be given to the employee at the end of each pay period. The statement should show (*Employment standards code* s.14):

- a) The rate of pay for regular time and for overtime;
- b) The number of hours worked at regular time and overtime;
- c) The earnings paid and the source of the earnings
 - a. The amount of regular pay and overtime pay earned;
 - b. The amount of bonus, or living allowance paid;
 - c. The amount of vacation pay or holiday pay;
- d) All the deductions and the reason for the deductions; and
- e) Time off taken instead of overtime pay.

When an employer fires or lays off an employee with notice or pay, then all unpaid wages must be paid within three days after the last day of employment. When an employee is fired with cause, the employer must pay the employee's earnings no later than 10 days after the last day of employment (s.10 *Employment Standards Code*).

Length of a Shift

Generally, an employee must be paid for at least 3 hours of work every time he or she reports for a scheduled shift. Again, some employees are exempted from this rule.

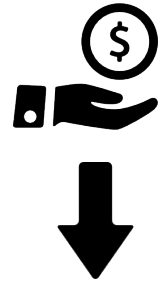


School bus drivers, part-time employees in certain non-profit recreation and athletic programs, and adolescent employees who work on school days must be paid for at least 2 hours of work per day (s.11, *Employment Standards Regulation*).

Reduced Wages (*Employment Standards Code s.13*)

Notice is required before your wage can be reduced. Employers must notify an employee if the employee's wage rate, overtime rate, vacation pay, general holiday pay, or termination pay is to be reduced of the reduction before the start of the employee's pay period in which this reduction is to take effect.

If the employer does not give notice, the employee is entitled to the wage they received before the reduction.



OCCUPATIONAL HEALTH AND SAFETY

Employers have an obligation to ensure the health and safety of their employees and to provide safe worksites to the extent that is realistic (*Occupational Health and Safety Act*)



An employee is not required to work if they will create an imminent danger to themselves, or if they will put someone else in danger. Employees should tell their employer about unsafe conditions as soon as possible. If after reporting the unsafe conditions to their employer, the unsafe conditions continue the employee(s) can also report unsafe working conditions to an Employment Standards Officer for investigation (s.35, *Occupational Health and Safety Act*). The employer CANNOT discipline an employee because they refuse to do imminently dangerous work in accordance with the *Occupational Health and Safety Act* (s. 36). If an employee is disciplined or fired because they refused to work in accordance with the *OH&S Act* then that employee is entitled to voice a complaint to an Employment Standards officer (*Occupational Health and Safety Act* s.37). It is important that an employee tell the absolute truth in the complaint. Making a false complaint could result in a fine or jail time as a punishment (*Occupational Health and Safety Act* s.41 (3)).



You can contact OH&S/Employment Standards in Edmonton at 780-415-8690



TERMINATION, TRANSFER, AND DEMOTION

Termination Notice and Pay (s.56 *Employment Standards Code*)

An employer must give an employee advanced written notice if he/she is being laid off. The amount of notice (or pay instead of notice) the employee should receive depends on how long they have worked for the employer.



Duration of employment	Notice required prior to termination
0-3 months	No notice require
3 months- 2 years	1 week
2 -4 years	2 weeks
4- 6 years	4 weeks
6- 8 years	5 weeks
8- 10 years	6 weeks
10 years +	8 weeks

As always, it may be a good idea to speak to a lawyer before signing any sort of termination agreement.

Employees are NOT entitled to notice or termination pay when they (*Employment Standards Regulation s.5, Employment Standards code s.55*):

- Have been fired for just cause;
- Have been employed for three months or less;
- Are employed for a specific length of time or for a specific task for less than 12 months (does not apply to employees who work in oil well drilling);
- Refuse to take an offer for reasonable replacement work;
- Refuse to take work that is made available because of a seniority system;
- Are not given work because there is a strike or lockout at their workplace;
- Are employed casually and can choose to work or not to work when asked by the employer
- Are a seasonal employee, and the season is over;
- The employment contract is now impossible for the employer to perform because of unpredictable and/or unavoidable causes that could not have been controlled;
- Work in the construction industry (see s.5 of *Employment standards regulation* for definition of what counts as the “construction industry”); or
- Work clearing land by cutting, removing, burning or other methods of disposing of trees and/or brush

Just Cause (s.55(2) *Employment Standards Code*)

An employer can terminate an employee for “just cause”. If the employee is terminated for “just cause” the employer does not have to give notice or termination pay. There are a number of reasons that could qualify as ‘just cause’, but a whether reason qualifies as ‘just cause’ will depend greatly on the circumstances of each case. Some examples could include:

- Falsified qualifications (ex. Lying about having a valid drivers licence)
- Engaging in sexual harassment.
- Stealing or being dishonest.
- Not obeying the rules at work.

Transfers and Demotions

Generally, an employer cannot demote or transfer an employee without reasonable notice or the consent of the employee. If an employer does this, the employee may be able to treat this as a constructive dismissal and ask for termination pay.



NOTE: Rules dealing with notice and termination pay do NOT apply to construction workers, seasonal workers, or those employed for a fixed period of time.

Employee Notice to an Employer (*Employment Standards Code s.58*)

If an employee wants to quit their job they are required to give advanced notice to their employer before they quit. How much notice is required depends on how long the employee has worked for the employer. If an employee has worked for more than 3 months and less than 2 years, they are required to give at least one week's notice. Employees who have worked for more than 2 years must provide 2 weeks' notice.

Duration of Employment	Notice required
0- 3 months	None
3 months- 2 years	1 week
2 years+	2 weeks

There are some situations where the employee does NOT have to give notice (*Employment Standards Code s.58 (2)*)

- There is an established norm in the industry for quitting that does not require notice to be given;
- The employee quits because their health or safety would be in danger if they continued to work for the same employer
- The contract of employment is impossible to perform because of unpredictable or unavoidable causes that are beyond the employee's control;
- The employee has worked for the employer for 3 months or less;
- The employee is temporarily laid off;
- The employee rejected an offer of reasonable alternative work and got laid off;
- The employee is not getting work because of a strike or lockout at the employee's place of employment;
- There is an agreement where the employee can choose either to work or not to work when asked to work ; or
- The employee quits because of a decrease in wage, overtime rate, vacation pay, general holiday pay or termination pay.

EMPLOYMENT STANDARDS

When employees are unable to resolve matters with their employer, Employment Standards staff can investigate the matter after they receive a written complaint. Employees who want to file a complaint with Employment Standards must file within six months of the date on which their employment ended (*s.82 Employment Standards Code*).

Employment Standards provides telephone-counselling services for anyone who has a question concerning employment. Recorded messages and an automated fax-back system are available 24 hours a day. Employment standards advisors are available to speak to you over the phone during regular business hours (9 am to 5pm Monday- Friday).

Employment Standards can be reached by phone at 780-427-3731. You can also start an inquiry online at: work.alberta.ca/employment-standards/Employment-Standards-Online-Inquiry.html

DISCRIMINATION

The *Alberta Human Rights Act* s.7,8 prevents employers from treating certain employees differently than others because of certain personal characteristics, without a valid reason. The employer will have a valid reason for discriminating if accommodating the characteristics of the employee will cause undue hardship. For example, if there is a reasonable requirement for the particular job that the employee cannot meet because of a particular characteristics this will not count as discrimination if accommodating the employee characteristic will cause undue hardship on the employer (*Alberta Human Rights Act* s.7(3)). One example might be that being blind is a physical disability, but if driving is absolutely required as part of a particular job then discrimination based on the individual's blindness will not be (see the list below., *Alberta Human Rights Act* s.3).



If an employee has been discriminated against, they may make a complaint to the Alberta Human Rights Commission. The Commission will consider discrimination on the basis of any of the characteristics listed below (*Alberta Human Rights Act* s.3):

- a. Gender (including pregnancy);
- b. Religious beliefs;
- c. Race;
- d. Ancestry;
- e. Colour;
- f. Physical or mental disability;
- g. Age;
- h. Family status;
- i. Marital status;
- j. Source of income;
- k. Sexual orientation; and
- l. Place of origin.

The Commission can order an employer to stop unfair treatment. An employee must submit a written complaint within 12 months of the incident. The commission will attempt to mediate the dispute first. If this fails, a hearing may be scheduled (*Alberta Human Rights Act* s.38(1)).

You can ask Human Rights Commission representative's questions confidential (anonymous) questions by telephone at 780-427-7661. If you are unsure if the way your employer is treating you or another employee is discrimination, you can call and ask.

The *Employment Standards Code* s.125 also prohibits employers from discriminating against employees who assert their rights under the Act, make a complaint under the Act, or give evidence in any hearing of proceeding under the Act.

EMPLOYMENT INSURANCE

Employment Insurance (EI) is a program that provides financial assistance to Canadians that are unemployed because of reasons that were not their fault.



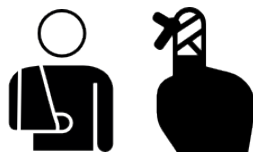
In order to be eligible for EI regular benefits you must have been unemployed for at least 7 days out of the last 52 weeks. Generally, you must have worked between 420 and 700 hours in the last year to qualify for EI. How many hours you will need exactly will depend on the unemployment rate in Alberta at the time. You also must not be unemployed because of something that was your fault. For example, if you quit without a good reason or are fired for just cause, you may not qualify for EI. You should apply for EI benefits within four weeks from the last day of employment to avoid unnecessary delays or loss of benefits. It usually takes 28 days from the date the claim is filed before receiving the first cheque.



You will still have to look for a job and comply with certain conditions (ex. remaining in Canada, filling out reports) while collecting benefits. It is a good idea to write down the names of all the places where you have applied for a job in case you are audited by service Canada.

If you wish to apply for EI, then you must collect a record of employment from your employer. If they refuse to give you one, contact Service Canada.

You can Apply for EI online at www.servicecanada.gc.ca, by phone at 1-800-206-7218, or by visiting the service Canada center closest to you.



WORKERS' COMPENSATION

If an employee cannot work because of an injury they received at work they can apply to the Workers Compensation Board (WCB) for benefits. If the claim is accepted, the employee may be paid up to 90% of their net (after deductions) income (*Workers Compensation Act* s.56(6)).

If you suffer a workplace injury or an occupational disease it is important to contact your employer as soon as possible. Your employer is required to report injuries that are likely to prevent an employee from working for any longer than the remainder of the workday to the WCB (*Workers Compensation act* s.33). Employees can also report injuries to the WCB themselves (*Workers Compensation act* s.32). If the injury requires more medical attention than first aid or you had to miss work because of the injury, it should be reported to the WCB. When submitting a report to the WCB make sure it is received within 2 years of the

injury, or within 2 years when the employee first learned of the occupational disease. If the report is received after 2 years the claim might be denied (*Workers Compensation Act s.26*)

You can report an injury online at www.wcb.ab.ca , or you can contact WCB over the phone at 780-498-3999.

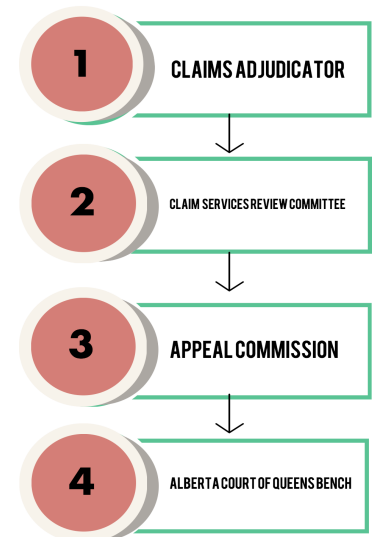
If the employee disagrees with an initial decision of the WCB claims adjudicator, you can appeal the decision to the Claims Services Review Committee (*Workers Compensation Act s.46*). If you wish to appeal a decision you must notify the WCB in writing. You should do so within 1 year or your appeal may be dismissed (*Workers Compensation acts s.46*). The employee and/or their representative have the right to view their file in order to prepare for the appeal. A free appeal advisor service is provided by WCB's appeals advisory service. You can reach the Office of the Appeal Advisory at 780-498-8640.

The employee has the right to have a representative at the appeal hearing, which can be a lawyer, an appeals advisor, someone from Student Legal Services, or some other agent (for example: a friend or relative) (*Workers Compensation Regulation s.11*). If you would like the help of Student Legal Services it is important to contact us as soon as possible. The closer to your hearing date that you call, the lower the chance that help will be available. You can reach the SLS civil project at 780-492-8244.

If you believe there was a mistake made in the decision of the Claims Service Review Committee you can appeal the decision to the Appeal Commission (*Workers Compensation Act s.13.2*). You must notify the WCB if you wish to appeal within 1 year of the decision of the Claims Service Committee (s.13.2).

If you believe there was an error in the decision of the Appeal Commission the decision can be appealed to the Alberta Court of Queens Bench (*Workers Compensation Act s.13.4*). To appeal you must file an application with the Court and serve it on the Appeal Commission within 6 months of their decision (13.4).

Levels of appeal for WCB decisions



JOB TRAINING AND FINDING EMPLOYMENT

There are programs in Alberta that may be able to help unemployed individuals with job training or with finding employment. *Alberta Works* is a program of the Alberta Government to help unemployed people find and keep jobs, help low-income Albertans cover their basic costs of living, and help employers meet their need for skilled workers. In Edmonton there are several *Alberta Works* office locations, visit <http://humanservices.alberta.ca/> to find the location nearest you. You can also contact *Alberta Works* by phone at 780-427-9674.



Other programs also exist to help unemployed individuals who are experiencing difficult circumstances.



The Bredin Centre has programs to help with resume building, job search, and other skills. You can reach the Bredin Center at 780-425-3730 or visit their website <http://www.bredin.ca/>

Boyle Street Community Services has programs for job training and employability. They are also a valuable resource for individuals who are having a difficult time finding a job because of addictions or homelessness.



The Bissell Center also has employability and education programs to help individuals facing difficult circumstances. The Bissell center also has a casual day labour program for short-term employment on a day-to-day basis. You can reach their employment office at 780-424-4385.

The Bent Arrow Traditional Healing Society also has an employment program called Journey to Success that helps aboriginal people with life management and employment seeking skills. To apply for the Journey to Success program you can reach Bent Arrow by phone at (780) 481-3451 or by email at reception@bentarrow.ca.

Oteenow Employment and Training Society provides similar services of employment training for aboriginal people. You can reach Oteenow by phone at (780) 444-0911 or online at www.oteenow.com.

Women Building Futures is an organization that can help women with job training for the construction industry and trades work. You can reach Women Building Futures at 780-452-1200 or get more information at www.womenbuildingfutures.com.

The University of Alberta runs the CAPS services to help undergraduate students and recent graduates of the U of A find employment. You can reach CAPS at 780-492-4291 or online at <http://www.caps.ualberta.ca>.

For youth there are YouCan youth services provides a program to help unemployed youth between the ages of 16 and 22 by providing education programs to help with job searching skills, work experience, and employability. You can reach YouCan online at <http://youcan.ca/> or by phone at 780-444-3348

Careers in Transition is a program that provides help for unemployed individuals to get their General Education Development (GED) diploma. To contact careers in transition, you can phone (780) 496-9228, or visit their website (<http://www.citinc.ca>) for more information.



WHERE CAN I GET HELP OF MORE INFORMATION

Employment Standards (*outside Edmonton dial 310-0000 first*)[780] 427-3731
<http://employment.alberta.ca/SFW/1224.html>

Occupational Health And Safety..... 1-866-415-8690
<http://www.employment.alberta.ca/SFW/53.html>
Call if you experience unsafe working conditions

Employment Insurance 1-800-206-7218
<http://www.servicecanada.gc.ca/eng/sc/ei/index.shtml>

Workers' Compensation Board.....[780] 498-3999
www.wcb.ab.ca
Call if you were injured at work

Alberta Human Rights Commission..... (780) 427-7661
www.albertahumanrights.ab.ca
Call if you have experienced discrimination in your workplace

Alberta Works 1-866-644-5135
<http://employment.alberta.ca/FCH/3171.html>
Call if you need help finding employment

Boyle Street Community Services.....(780) 424-4106
<http://boylestreet.org/>
Boyle street can provide help finding employment, especially for individuals experiencing homelessness

Bent Arrow Traditional Healing Society(780) 481-3451
www.Bentarrow.ca
Employment skills training and job search skills training for aboriginal individuals.

Oteenow Employment and Training Society.....(780) 444-0911
www.oteenow.com
Employment skills training and job search skills training for aboriginal individuals.

Legal Assistance

Dial-A-Law (Legal Information on Tape).....1-800-332-1091

Edmonton Community Legal Centre.....780-702-1725
www.eclc.ca
Free legal information and help for low-income individuals.

Lawyer Referral Service.....1-800-661-1095
 Call to obtain the contact information of 3 lawyers in your area who work any area of practice including employment law.

Legal Aid Alberta.....780- 427-7575
www.legalaid.ab.ca
 Free legal information, lawyers who may represent you for a reduced rate if you earn less than a certain amount

Student Legal Services of Edmonton.780- 492-2226
 Civil Law.....780- 492-8244
www.slsedmonton.com

Native Counselling Services of Alberta.....780- 451-4002
www.ncsa.ca
 Court workers provide information on the nature of the criminal charge, rights, and court procedure. Assistance and support with the necessary documents, Legal Aid applications, and other help.