



Labour

Information on **LABOUR STANDARDS**

1A FILING A COMPLAINT

Part III of the *Canada Labour Code* establishes and protects the rights of workers in federally regulated enterprises to fair and equitable conditions of employment. The provisions of the Code reflect minimum standards for employment conditions. They also offer a way for employees to recover unpaid wages and ensure other labour standards are upheld in their workplace.

1. Before a Complaint is Filed

Consider the following:

First, if you are a unionized employee covered by a collective agreement which provides for a grievance procedure, please contact your union representative to discuss your complaint. In most instances, the Labour Program is not authorized to handle your complaint.

Second, if possible, approach your employer to try to resolve the issue. It is possible for parties to reach a settlement before Labour Program inspectors make their final determination during a complaint investigation.

2. To File a Complaint

Download the [Labour Program Complaint Form](#) from the Service Canada website.

Step One: File within Six Months

You have six months in which to file a complaint to the Labour Program.

If your complaint is related to unpaid wages or other amounts, it must be filed within six months from the last day your employer was required to pay these amounts.

If your complaint is related to another labour standard violation, it must be filed within six months from the day on which the subject matter of your complaint arose.

Step Two: Fill in the Form

You need to provide your name, address and contact information, as well as the name, address, and contact information of your employer.

Next, you need to provide your work history with the employer and details about your complaint. This includes selecting whether your complaint is related to wages or other amounts owed, or another labour standards violation.

Step Three: Photocopy Records

If you have any documents or records to support your complaint, you should copy and attach them to your complaint form.

If your complaint is related to wages or other amounts owed, your records only need to cover a specific time period: 12 months prior to the complaint for wages; and 24 months prior to the complaint for vacation pay.

3. What Happens Next?

You will receive a *Letter of Acknowledgement* from a Labour Program inspector which confirms that your complaint has been received and is being reviewed.

The inspector will determine whether you and your employer fall under the Code's jurisdiction and whether a violation of labour standards has occurred. A *Preliminary Letter of Determination* will be sent to you and your employer with the inspector's findings.

If you or your employer disagree with the findings, there will be an opportunity to provide more information to the inspector. This will be reviewed before a final determination is made.

If a violation is found, a *Letter of Determination* will be sent to your employer requesting that the violation be corrected. For example, they may be asked to pay wages owed to you or to implement appropriate workplace practices.

If the employer is found to be in compliance with the Code, you will be notified of the inspector's findings in writing. You may also subsequently be issued a *Notice of Unfounded Complaint*.

4. Recovery of Wages

If the inspector concludes that your employer owes wages or other amounts to you, you may receive the monies directly from your employer or through the Labour Program inspector.

If your employer refuses to pay amounts owed, the inspector will issue a *Payment Order* to either the employer or the directors of the corporation for the payment. A *Payment Order* to recover wages will cover 12 months before the complaint, and an order to recover vacation pay will cover 24 months before the complaint.

5. To Request a Review

If you disagree with a *Notice of Unfounded Complaint*, you may request a review of the inspector's decision to issue this notice. Your request must be made to the Minister of Labour, with written reasons and within 15 days after the notice was served.

Your employer also has the right to request a review of a *Payment Order* if their request is made to the Minister, with written reasons, payment in full and within 15 days after the order was served.

6. Administrative Review Process

A Labour Program official will assess the review request. Upon completion of the review, the parties will be informed whether the inspector's decision is confirmed, varied or overturned.

7. Appeal Process

Following a review, if the parties disagree and there is a question of law or jurisdiction, the case may be appealed to a referee. Some cases may be referred directly to a referee to be heard.

The referee may confirm, vary or overturn, in whole or in part, the *Notice of Unfounded Complaint* or *Payment Order* originally issued by the inspector. The referee may also award costs in the proceedings.

If a party involved in the hearing fails to comply with the referee's decision, a request may be made to the Minister to file the referee's order in the Federal Court of Canada.

Once the order is registered in this Court, the Labour Program will no longer be involved in the case.

This pamphlet is provided for information purposes only. For interpretation and application purposes, refer to Part III of the *Canada Labour Code* (Labour Standards), the *Canada Labour Standards Regulations*, and relevant amendments.

The number, 1-800-641-4049, offers 24-hour bilingual information on Employment Standards, Health and Safety, Employment Equity, and Pay Equity.

Information on Labour Standards #1A – Filing a Complaint

You can download this publication by going online: <http://www12.hrsdc.gc.ca>

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PDF

Cat. No.: Em8-3/2014E-PDF

ISBN: 978-1-100-23426-7

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Cat. No. : LT-0124-03-14