



*Labour Program: fair, safe and productive workplaces*

## 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 set labour 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.

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## To File a Complaint

Download the Labour Program Complaint Form, available from the Service Canada website at <https://catalogue.servicecanada.gc.ca/content/EForms/en/Profile.html?Group=HRSDC/LAB/LS>

### 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 such as termination and severance pay, 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.

### Step Four Submit

Once you have completed the form and attached any supporting documents, please submit these to the Labour Program office nearest you. To locate a Labour Program office, please refer to the Regional Office listing available on the Labour Program website ([www.labour.gc.ca](http://www.labour.gc.ca)) under Contact Us.

### 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. A Labour Program inspector will review any new information submitted before a final determination on your complaint 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*, which advises you that the employer is in compliance, including reasons why, and that the inspector's decision can be appealed.

### 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 the 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.

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### 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. At the discretion of the Labour Program, depending on the complexity of the issues, 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.

## 8

### The Price of Non-Compliance: Costly Fines

Upon summary conviction, a corporation that has violated federal labour standards will be fined up to \$50,000 for the first offence, up to \$100,000 for the second offence, and up to \$250,000 for the third (and any subsequent) offences.

An employer that is not a corporation will be fined up to \$10,000 for the first offence, up to \$20,000 for the second offence, and up to \$50,000 for the third (and any subsequent) offence.

Upon summary conviction of a serious offence of Part III of the Code, an employer will be fined up to \$250,000 for the first (and any subsequent) offences. A serious offence includes failure by an employer to: offer workers' compensation coverage; insure any long-term disability plans they may offer to employees; and comply with group termination requirements.

The fine for an employer's failure to keep or make records available to Labour Program inspectors is \$1,000 per day that the violation continues. The fine for failing to comply with an order to pay wages or to reinstate an employee is also \$1,000 per day that the violation continues.

A repeat offence will be determined if the first offence occurred within the preceding five years.

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

*Information about these provisions may be obtained from the Labour Program by calling toll free at 1-800-641-4049, by visiting the website at [http://www.esdc.gc.ca/en/jobs/workplace/employment\\_standards/labour/index.page](http://www.esdc.gc.ca/en/jobs/workplace/employment_standards/labour/index.page) or by submitting your questions or comments through the Labour Program [Contact Us](#) form.*

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Filing a complaint**

This publication is available for download at [canada.ca/publiccentre-ESDC](http://canada.ca/publiccentre-ESDC).

It is also available upon request in multiple formats (large print, Braille, audio CD, e-text CD, or DAISY), by contacting 1 800 O-Canada (1-800-622-6232). By teletypewriter (TTY), call 1-800-926-9105.

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