

Ministry of Labour, Immigration, Training and Skills Development

Employment Standards Rights for Temporary Help Agency Assignment Employees

Disclaimer: This resource has been prepared to help employees and employers understand some of the minimum rights and obligations established under the *Employment Standards Act, 2000* (ESA) and regulations. It is not legal advice. It is not intended to replace the ESA or regulations and reference should always be made to the official version of the legislation. Although we endeavor to ensure that the information in this resource is as current and accurate as possible, errors do occasionally occur. The ESA provides minimum standards only. Some employees may have greater rights under an employment contract, collective agreement, the common law or other legislation.

The [Employment Standards Act, 2000](#) (ESA) sets minimum standards for most workplaces in Ontario, such as minimum wage and limits on hours of work. Special rules and exemptions apply to certain employees, including assignment employees of temporary help agencies. This information sheet gives information about your rights as an assignment employee. For more information on your rights visit [Ontario.ca/ESAGuide](#) and select Temporary Help Agencies.

In addition to this information sheet, the temporary help agency must also provide you with the Employment Standards Poster within 30 days of starting your job. If your first language is not English, your employer must provide the poster to you in your first language, if you ask for it and it is available from the Ministry of Labour, Immigration, Training and Skills Development. The poster is available for download at [Ontario.ca/ESAposter](#).

Are you an assignment employee?

You are an assignment employee of a temporary help agency if you and the temporary help agency agree that it will help you find temporary work assignments.

Your temporary help agency is your employer even when you are not assigned to work for one of their client businesses.

Your temporary help agency must provide you information

Your temporary help agency must tell you their legal name, any other names used by the temporary help agency and contact information in writing as soon as possible after you are hired.

When your temporary help agency offers you an assignment with a client business, the agency must give you the following information in writing as soon as possible:

- the client business' legal name, any other names used by the client business and contact information
- your wage rate and benefits
- the hours you will be working
- a description of the work you will be doing
- the length (term) of the assignment (if known)
- your pay period and pay day

Your temporary help agency cannot charge you certain fees

Your temporary help agency cannot charge you a fee for:

- being its employee
- helping you find an assignment
- giving you information or advice on how to write a resume or prepare for an interview, even if you asked for help

Client businesses can give you job references or hire you

Your temporary help agency cannot:

- stop a client business from giving you a job reference
- stop a client business from hiring you directly
- charge you a fee if a client business wants to hire you

Your temporary help agency and client business must both keep records

Your temporary help agency must record the number of hours you work for each client business in each day and each week. A client business must also record the number of hours you work for them in each day and each week.

Vacation time and pay

You have the right to vacation time and vacation pay. The amount of vacation time and vacation pay depends on how long you have worked for your temporary help agency. If you have worked for your temporary help agency for less than five years, you have the right to two weeks of vacation after every twelve-month vacation entitlement year and vacation pay of four percent of your total wages. If you have worked for your temporary help agency for five or more years, you have the right to three weeks of vacation time after every twelve-month vacation entitlement year and vacation pay of six percent of your total wages.

Generally, your temporary help agency must pay your vacation pay as a lump sum before you take your vacation. However, your temporary help agency can pay your vacation pay on every pay cheque if you agree in writing.

For example: Syed has worked for his temporary help agency for three years. He can take two weeks of vacation and earns four percent in vacation pay. He earns \$1,500.00 every two weeks. Syed and his temporary help agency agreed that he will be paid vacation pay on each pay cheque. Syed is paid \$60.00 ($\$1,500 \times 4\%$) in vacation pay on each pay cheque.

Learn more about vacation time and vacation pay at [Ontario.ca/vacation](https://www.ontario.ca/vacation).

Public holidays

Ontario has nine public holidays each year:

- New Year's Day
- Family Day
- Good Friday
- Victoria Day
- Canada Day
- Labour Day
- Thanksgiving Day
- Christmas Day
- Boxing Day

If you are on assignment and there is a public holiday on one of your working days, generally you have the right to take the public holiday off work and be paid public holiday pay.

There is a formula for calculating public holiday pay:

- add your regular wages earned and all vacation pay payable in the four weeks before the public holiday
- divide that number by 20

For example: Josefa is on assignment and earns \$600 per week. She receives 4% vacation pay on each pay cheque. Canada Day falls on one of Josefa's working days. In the four weeks before Canada Day, Josefa's regular wages were \$2,400 ($\600×4). In the four weeks before Canada Day, the amount of vacation pay payable to Josefa was \$96 ($\$2,400 \times 4\%$). Josefa is owed \$124.80 in public holiday pay ($\$2,496 \div 20$).

You can work on a public holiday if you and your temporary help agency agree in writing. Generally, if you work on a public holiday, you must be paid public holiday pay and premium pay for the hours you worked on the public holiday OR be paid your regular wages for the hours worked on the public holiday and take a different day off with public holiday pay.

If you are on assignment and a public holiday falls on a day that is not one of your working days, you have the right to a substitute day off with public holiday pay. You and your temporary help agency can also agree in writing that your employer will pay you public holiday pay only.

If you are not on assignment when there is a public holiday, generally you have the right only to public holiday pay.

To learn more about public holidays at [Ontario.ca/publicholidays](https://ontario.ca/publicholidays).

Termination of assignment

Generally, if your temporary help agency wants to terminate (end) your assignment with a client business, your temporary help agency must give you one week's written notice of termination of assignment or termination of assignment pay if:

- You are assigned to work for a client business
- When this assignment was offered to you, it was planned to last three months or more
- The assignment is being terminated (ending) earlier than the planned end date.

Termination of assignment is different from termination of employment. Even though your assignment may be terminated, you are still employed by your temporary help agency.

Termination of employment

In most cases, if your temporary help agency wants to terminate (end) your employment, your employer must give you written notice of termination or termination pay. You must work for your employer for at least three months to have a right to termination notice or termination pay.

The amount of notice or pay depends on how long you have worked for your employer:

- less than one year of employment: one week
- one year to two years of employment: two weeks
- three years of employment: three weeks

- four years of employment: four weeks
- five years of employment: five weeks
- six years of employment: six weeks
- seven years of employment: seven weeks
- eight years or more of employment: eight weeks

For example: Luna worked for her temporary help agency for 16 months. She earned \$800.00 per week. Her temporary help agency must give her two weeks of termination notice or termination pay. Her temporary help agency chose to give her termination pay. Her temporary help agency must pay her \$1,600.00 (\$800 x 2).

Learn more at Ontario.ca/terminationofemployment or go to Ontario.ca/ESAtools to calculate how much termination notice or termination pay you may be owed.

You cannot agree to give up your rights

You cannot agree or sign a contract to give up any of your rights under the ESA. These agreements or contracts are invalid. For example, if you sign a contract saying you cannot take a job with a client business, this agreement would be invalid.

You cannot be punished for asking about or exercising your ESA rights

If you ask about or exercise your rights under the ESA, your temporary help agency or client business cannot punish you in any way, including by ending your assignment.

For more information or to file a claim

For more information about the ESA visit Ontario.ca/ESAGuide.

If you have questions about the ESA you may also call the Employment Standards Information Centre at 416-326-7160, toll free at 1-800-531-5551, or TTY 1-866-567-8893. Information is available in many languages.

If you believe that you have not received your rights under the ESA, you can file a claim with the Ministry of Labour, Immigration, Training and Skills Development at Ontario.ca/ESAclaims.