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for community workers and advocates who
work with low-income and disadvantaged
communities in Ontario.



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- Feel free to ask a question by chat at any time – Your question will only be seen by the presenter and not other participants
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- To reduce background noise over the telephone you may press ***6** on your telephone to **mute** the line. Press ***7** to **un-mute** the line if you would like to speak over the phone
- We plan to **make a recording** of this webinar for those who were unable to join us and will post it on the CLEONet web site.



About our presenter...

Jessica Michael is a staff lawyer at **The Community Advocacy & Legal Centre (CALC)**, a non-profit community legal clinic. CALC serves low income residents of Hastings, Prince Edward and Lennox & Addington counties. The clinic (formerly known as Hastings and Prince Edward Legal Services) is currently staffed by [lawyers](#), [community legal workers](#), [law clerks](#) and [support staff](#) and is funded by [Legal Aid Ontario](#). Jessica joined CALC in 2004, working primarily in the area of housing law. Her clinic work currently focuses on employment law, human rights, workers compensation and CPP disability. She received her law degree from Dalhousie University. Jessica was called to the Ontario Bar in 2004.



Community Advocacy & Legal Centre

Employment Rights

Employment Standards Act



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Overview

This presentation is designed to provide you with an understanding of the rights provided to the workers in Ontario under the *Employment Standards Act (ESA)*.



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Employment Standards Act

General Overview

The *ESA* outlines the basic rights of workers in Ontario.

However, some workers are not covered by the *ESA* and there are special exemptions to many of the *ESA* protections. The information in this presentation does not cover all the exemptions.

Therefore, we encourage you to contact a lawyer if you do encounter an employment issue.



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Employment Standards Act

Minimum Wage

| Minimum Wage Rate | March 31, 2009 | March 31, 2010 |
|--------------------------|-----------------------|-----------------------|
| General | \$9.50 per hour | \$10.25 per hour |
| Students | \$8.90 per hour | \$9.60 per hour |
| Server of Liquor | \$8.25 per hour | \$8.90 per hour |



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Employment Standards Act

Overtime

You are entitled to 1½ times your regular rate of pay for every hour worked over 44 hours per week.

You can agree in writing to average the hours you work over periods of two or more weeks to calculate overtime pay.

- You have the right to refuse to agree to this practice.



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Public Holiday Pay

If you work your regularly scheduled shifts before and after a public holiday, then you are entitled to holiday pay even if you did not work on the Public Holiday.

Public Holiday pay is calculated by dividing the previous 4 work weeks earnings by 20.

- This usually works out to be about one day's pay.



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Employment Standards Act

Working on Public Holidays

If you work **on** a Public Holiday, you can agree in writing to either:

- Be paid both Premium Pay (1½ times the hourly rate for all hours worked) **AND** Public Holiday Pay

OR

- Work the Public Holiday at your regular rate of pay **AND** take another day off with Public Holiday pay.



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Other Protections

You must be paid for training.

If you are called into work but are sent home early, then you must be paid for at least 3 hours of work, unless you were originally scheduled to work for less than 3 hours.

An employer cannot withhold or deduct your wages for faulty work or because the employer had a cash shortage, lost property, or had property stolen when more than one person had access to the lost or stolen cash/property.



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Employment Standards Act

Termination Notice and Termination Pay

An employer must give you a working notice or pay instead of notice (termination pay) if you are to be fired or laid off. The length of notice depends on your length of service.

Time Worked

Less than 3 months

More than 3 months, less than 1 year worked

More than 1 year, less than 3 years worked

More than 3 years, less than 4 years worked

And so on up to a maximum of 8 weeks

Notice

No Notice

1 week

2 weeks

3 weeks



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Employment Standards Act

Severance Pay

An employee who is fired or laid off can also get severance pay in addition to termination pay.

To be entitled severance pay:

- you must have worked for at least 5 years for your employer, and
- the employer must have an annual payroll of more than \$2.5 million,
or
- must have terminated 50 or more employees in the last 6 months

Severance pay is one week of pay for every year worked up to a maximum of 26.



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Employment Standards Act

Suing For More Termination Notice

If an employee who is entitled to termination pay and/or severance pay feels that the notice (or the pay in lieu of notice) that he or she received was inadequate, the employee can sue the employer for more.

Determining if a fired or laid off employee should sue for more notice (or pay in lieu of notice) is complicated. We strongly suggest that an employee who is considering this option consult with a lawyer.



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Employment Standards Act

Termination Pay and Severance Pay

You are not entitled to termination pay or severance pay if you quit or if you are fired for neglect of duty, disobedience, or wilful misconduct.



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Vacation Pay

After 1 year of working with the same employer, you are entitled to take off 2 weeks of paid vacation.

- Your employer can tell you when you can take your vacation.
- Your employer can't make you take your vacation one day at a time.

If you don't take your paid vacation, then you are entitled to 4% vacation pay for every dollar you earn.

- If you leave a job before taking vacation, make sure you get your 4%!



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Emergency Leave

Large employers (50 or more workers) are legally required to provide 10 days, unpaid “Emergency Leave” each year.

- You may take this leave for illness, injury, medical emergency and death of a family member.
- Your employer can consider a half day off as one full day.
- You may have to show proof, like a doctor’s note, for the reason of your leave.



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Maternity and Parental Leave

Pregnant workers have the right to take maternity leave up to 17 weeks of unpaid time off.

Both parents can also take unpaid parental leave.

- The birth mother can take an additional 35-week leave for a total of 52 weeks per child.
- The other parent can take up to a 37-week leave.

Your employer does not have to pay you during your leave, but they have to give you back your job or give you a similar job when you return.



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How to Protect Yourself

1. Keep a diary of your hours worked and of any significant events that occurred at work, e.g. harassment. Keeping a record is a great way of proving your claim later.
2. If you know that your employer is not following the *ESA*, then talk to your co-workers and see if they have the same problems that you have.
3. Approach your employer as a group and tell your employer about your concerns.
4. If your employer refuses to follow the *ESA*, then you can file a complaint with the Ministry of Labour.
5. You can also unionize to obtain more protections.



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Contact Us

Our Service Area and Contact Information

Legal Aid Ontario funds a number of free community legal clinics throughout Ontario for people living on a low income.

To find the clinic closest to you, visit:

<http://www.legalaid.on.ca>

You can also find us in the Yellow Pages.

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