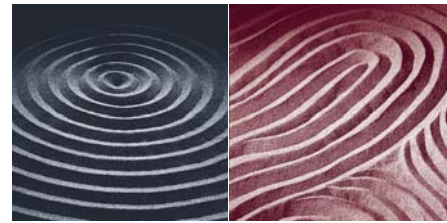


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Overview of the Employment Standards Act

Henry Leung

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Summer's almost here and students have begun looking for summer jobs. Many students and parents are concerned about and would like a greater understanding of employees' legal rights and protections. That being the case, in this issue I discuss the BC Employment Standards Act and its regulations so that readers can understand employees' basic rights.

Minimum working age

Except with their parents' or guardian's written consent, job seekers must be at least 15 years of age in order to be employed

Minimum wage

For most people who had paid work experience prior to November 15, 2001, or those who have accumulated 500 hours of paid work experience, whether in BC or outside BC, the minimum wage is \$8 per hour. For those with no work experience or less than 500 hours' work experience, the minimum wage is \$6 per hour. The 500 hours of work experience can be accumulated with different employers or jobs.

Hours of work and overtime

Meal breaks:

If an employee is required to work for more than 5 hours continuously, the employer is required to provide a meal break of at least half an hour. Unless the employer requires the employee to work or be prepared to work during the meal break, the employer is not required to pay wages for the meal break.

Daily minimum pay:

For every day that an employee reports for work, the employee must be paid a minimum of two hours' pay, regardless of whether the employee actually worked two hours. However, if the employee was originally scheduled to work more than eight hours in a day, the employee's pay for that day cannot be less than four hours' pay. If an employee has already started their shift but the employer cannot provide enough work, the employer must pay the employee two hours' pay or wages for the actual number of hours worked, whichever is greater.

Daily overtime:

If an employee works eight hours in a day, for the first four hours of overtime work that day, the employee must be paid at 1.5 times the hourly wage. For overtime work beyond the first 12 hours of work in a day, the employee must be paid double the hourly wage.

Weekly overtime:

Where an employee works more than 40 hours in a week, the employee must be paid 1.5 times the hourly wage for work beyond the 40 hours. For the purpose of calculating weekly overtime, only the first eight hours worked in each day are counted, and each week is from Sunday to Saturday. For example, if an employee works six days in a week, and works 10 hours a day, the employer must pay the employee 12 hours of daily overtime pay, as well as 8 hours of weekly overtime pay.

Statutory holidays and vacation pay

BC has nine statutory holidays: New Year's Day, Good Friday, Victoria Day, Canada Day, BC Day, Labour Day, Thanksgiving Day, Remembrance Day, and Christmas Day.

If an employee in a particular month had already been employed in the 30 days preceding the statutory holiday, and worked or earned wages in 15 of those 30 days, the employer must pay statutory holiday pay equivalent to an average day's pay for the employee. If an employee is required to work on a statutory holiday, the employee must be paid 1.5 times the employee's hourly wage for the first 12 hours of work, and twice the employee's hourly wage for work beyond the first 12 hours. In addition, the employer must pay the employee an average day's pay for the statutory holiday.

In addition to statutory holiday pay, if an employee is employed for more than 5 days at a particular job, the employee is entitled to vacation pay, equivalent to 4% or more of the wages in that job in that year.

Job training and safety procedures

Employers have a duty to provide employees with training related to their jobs and training in safety procedures. According to the Occupational Health and Safety Regulation, employees have the right to refuse to work in unsafe conditions. For most inquiries regarding industrial safety, you should inquire at the Workers Compensation Board or consult their website at www.worksafefbc.com.

How to resolve disputes

If you are a union member, you should seek assistance from your union representative to resolve disputes with your employer according to the terms of your collective agreement. If you are not a union member, you can use the Employment Standards Branch's Self-Help Kit and request in writing that your employer abide by the Employment Standards Act, for example, to pay wages that are owed to you. Those who are under 19 years of age are not required to use the Self-Help Kit. If you are not able to quickly resolve your dispute with your employer, you

must, within six months of the event that caused the dispute, file a written complaint with the Employment Standards Branch, in order for the Employment Standards Branch to handle your complaint. The Employment Standards Branch may arrange for arbitration between you and your employer, or may make a ruling on your dispute. The Employment Standards Branch's website is www.labour.gov.bc.ca/esb.

Wishing all youth a happy and fulfilling summer!

DISCLAIMER

The above is strictly the personal opinion of the author, provided for reference only. If you have a specific legal problem, you should consider seeking legal advice.