

MODULE 2

Monetary



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PAYMENT OF WAGES

An employer must establish a regular pay period and a regular payday for its employees. An employer has to pay all the wages earned in each pay period, other than vacation pay, no later than the employee's regular pay day for the period.

Commissions or "Bonuses"

An employment contract or the practice of the employer often provide that the commission or bonus is not "due and owing" or "earned" until some future event has occurred.

A "bonus" is not earned in the pay period in which the sales are actually made. Instead, in accordance with an agreement, it is earned and paid at a later date.

Wages

An employer may pay wages by:

- Cash;
- Cheque; or
- Direct Deposit.

A wage statement must include:

- Pay period;
- Wage rate;
- Gross amount of wages;
- How gross wages were calculated;
- Amount and purpose of deductions;
- Amount paid for room or board (if applicable); and
- Net amount of wages.

When employment ends, payment (including vacation pay) must be paid **7 DAYS** after the employment ends, or on the employee's next regular pay day.

Vacation Pay

If requested, the employer must provide information regarding vacation pay the first pay day following the request, or seven days after the request.

If the employer pays vacation pay on each pay cheque, the employer does not need to keep records or provide statements for information regarding vacation pay.

Permissible Wage Deductions

Statutory Deductions

- Income Taxes
- Employment Insurance premiums
- Canada Pension Plan contributions

Court Orders

A court order may indicate that an employee owes money and may direct an employer to make a deduction from an employee's wages and send the money to a court clerk. The employer is not allowed to make this deduction if the money is not sent to the court clerk or other official.



Written Authorization

An employer may also deduct money from an employee’s wages if the employee has signed a written statement authorizing the deduction.

It must include confirmation that the employer may make a deduction from the employee’s wages, and how.

Neither an oral authorization nor a general “blanket” statement is acceptable authorization.

An authorization **CANNOT** authorize deductions to cover a loss due to faulty work, cash shortage, or lost/stolen property.

MINIMUM WAGES

Minimum wage is the lowest wage rate an employer can pay an employee. Compliance with the minimum wage requirements is determined on a pay period basis.

Minimum wage rate	Rates from October 1, 2016 to September 30, 2017	Rates from October 1, 2017 to December 31, 2017	Rates from January 1, 2018 to October 1, 2020
General minimum wage	\$11.40 per hour	\$11.60 per hour	\$14.00 per hour
Student minimum wage	\$10.70 per hour	\$10.90 per hour	\$13.15 per hour
Liquor servers minimum wage	\$9.90 per hour	\$10.10 per hour	\$12.20 per hour
Hunting and fishing guides minimum wage	\$56.95 Rate for working less than five consecutive hours in a day \$113.95 Rate for working five or more hours in a day whether or not the hours are consecutive	\$58.00 Rate for working less than five consecutive hours in a day \$116.00 Rate for working five or more hours in a day whether or not the hours are consecutive	\$70.00 Rate for working less than five consecutive hours in a day \$140.00 Rate for working five or more hours in a day whether or not the hours are consecutive
Homeworkers wage	\$12.55 per hour	\$12.80 per hour	\$15.40 per hour



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There are a few different types of minimum wage:

- General Minimum wage;
- Student minimum wage;
- Liquor servers minimum wage;
- Homeworkers minimum wage; and
- Hunting and fishing guides minimum wage.

General Minimum Wage

This minimum wage is the lowest wage rate an employer can pay an employee unless they fall under a different type of minimum wage.

Example: One week, Janice works 37.5 hours. She is paid on a weekly basis. The minimum wage is \$14.00. Since compliance with minimum wage requirements is based on pay periods, Janice must be paid at least \$525.00

$$37.5 \text{ hours} \times \$14.00/\text{hour} = \$525.00$$

Student Minimum Wage

This minimum wage is applied to individuals under the age of 18 who work 28 hours a week or less when school is in session, or work during a school break or summer holiday.

Liquor Servers Minimum Wage

This hourly rate is applied to employees who serve liquor directly to customers, guests, members or patrons in licensed premises and who regularly receive tips or other gratuities as part of their work.

Homeworkers Minimum Wage

Homeworkers are employees who do paid work in their own homes. For example, they may sew clothes for a clothing manufacturer, answer telephone calls for a call centre, or write software for a tech company.

NOTE: Students who work as homeworkers must be paid the homemaker's minimum wage.

Hunting and Fishing Guides Minimum Wage

The minimum wage for hunting and fishing guides is based on blocks of time instead of by the hour. They get a minimum amount for working less than five consecutive hours in a day, and a different amount for working five hours or more in a day.

The hours do NOT have to be consecutive.

Commissions

If an employee's pay is based completely or partly on commission, their pay must amount to at least the minimum wage for each hour the employee has worked.

Example: Lee works on commission and has a weekly pay period. One week, she was paid \$150.00 in commission and worked 25 hours. The minimum wage X number of hours worked is \$350.00. Lee is owed the difference between her commission pay and the required minimum wage.

$$\$350.00 - \$150.00 = \$200.00$$

Therefore, Lee's employer owes her \$200.00 for her week of work, apart from her commission.



Room and Board & Minimum Wage

An employer can deduct room and board from an employee’s wages. The employee must have received the meals and occupied the room for it to be deemed as wages paid.

Maximum Amounts

<p><u>Room</u></p> <p>Private - \$31.70 Non-private - \$15.85 Non-private (domestic workers only) \$0.00</p> <p><u>Meals</u></p> <p>Each meal - \$2.55 Weekly maximum - \$53.55</p>	<p><u>Rooms and Meals (weekly)</u></p> <p>Private Room - \$85.25 Non-private - \$69.40 Non-private (domestic workers only) - \$53.55</p> <p><u>Harvest Workers Weekly Housing Serviced</u></p> <p>housing - \$99.35 Unserviced housing - \$73.30</p>
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Three Hour Rule

When an employee who regularly works more than 3 hours a day is required to report to work but works less than 3 hours, the employee is entitled to:

1. The amount the employee earned for the time worked + regular rate for the remainder of the time; OR
2. Wages equal to the employee’s regular rate for three hours of work

Example: If an employee who is a liquor server is paid \$14.00 an hour and works only 2 hours, he is entitled to 3 hours at his regular rate.

\$14.00 X 3/hr = \$42.00
\$14.00 X 2/hr = \$28.00

Though he/she only worked 2 hours, they are entitled to **\$42.00** from their employer.

Exceptions:

- *The employee is a student;*
- *The employee regularly works shifts that are 3 hours or less; and/or*
- *Work being less than 3 hours is outside the employer’s control (I.e., result of circumstance – fire, weather, power failure etc.)*

Change in Minimum Wage

On October 1 of every year starting in 2020, the minimum wage may increase annually to adjust for any increase to the Consumer Price Index. The new rates come into **effect October 1** and will be **published on or before April 1** of every year.

If a change to the minimum wage comes into effect partway through an employee’s pay period, the period will be treated as if it were two separate periods. The employee is entitled to at least the minimum wage that applies in each of those periods.



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EMPLOYEE TIPS & OTHER GRATUITIES

A tip or other gratuity is a voluntary payment made or left by a customer to an employee, or to the employer for the employee. It can also be payment of a service or similar charge imposed by the employer.

Examples:

- Money left on a table for a server
- Tip added to a credit or debit card payment for an employee
- Gratuity or service charges imposed by a banquet hall or similar establishment

An employer may decide if tipping is allowed in their business, but should make this clear to the clientele.

NOTE: There is no requirement under the ESA for employers to establish a regular period for distributing tips and other gratuities to employees. However, the failure of an employer to distribute tips within a reasonable time frame may constitute the withholding of those tips.

Employer's Restrictions

As of June 20, 2016 an employer cannot:

- Withhold;
- Make deductions from; or
- Make an employee return their tips and other gratuities. Except as

permitted by the ESA.

Employee's Restrictions

An employee may not agree to:

- Give his or her employer all tips in exchange for a higher rate of pay;
- Waive the right to a minimum wage in exchange for keeping all or a higher percentage of tips;
- Give the employer a percentage of their tips for reasons other than a tip pool.

Violations

If an employer violates rules regarding tips the amount wrongfully kept by the employer is considered debt owed to the employee. This debt is enforceable under the ESA as if it were wages owed. The employee may not waive his or her right to receive a tip or other gratuity.

When an Employer May Deduct from a Tip or Other Gratuity

An Employer may deduct from a tip or other gratuity in the case of:

- A statutory deduction;
- Pursuant to a court order; and/or
- Pursuant to an agreement to pool tips and other gratuities. Statutory

Deductions

Can include income tax, employment insurance premiums and Canada Pension Plan contributions. Court Order

A court order may indicate that an employee owes money to the employer or to someone else. Court order may direct an employer to make a deduction from an employee's tips and send the money to a court clerk to be paid in turn to a third party.



Pooling of Tips and Other Gratuities

An employer may withhold tips, make a deduction from an employee's tips or require an employee to give tips to another employee if the amount collected will be redistributed among some, or all, of the employer's employees.

Example: An employer can require a server to "tip out" a busser or kitchen staff, one per cent of tips the server received.

NOTE: A Manager and Employer are both allowed to keep the tips they receive themselves. However, only a manager may participate in tip pooling arrangements. An Employer may not, unless they perform the same work as employees and they are the sole proprietor.

RECORDS

An Ontario employer is required to keep written records about each person they hire. These records **MUST** be kept by the employer, or by someone else on behalf of the employer, for a certain period of time. They must also ensure the records are readily available for inspection.

An employer record must include the following details:

- Name, address and start date- for three years
- Date of birth, if the employee is a student and under 18 years of age- for three years from date employee turns 18 or ceased working, whichever is earlier
- Dates and times the employee worked- for three years
- Hours worked each day and week (unless salaried, in which case special rules apply)- three years
- If the employee has two or more regular rates for work performed, the dates and times overtime was worked at each rate of pay- for three years
- Written agreements to work excess hours or average overtime pay- for three years
- Where the employee has substituted a day off for public holiday- for three years
- Information contained in an employee's wage statement – for three years
- Information contained in an employee's wage statement on termination- for three years
- Information related to leaves – for three years
- Homework register – for three years

An employer must also keep vacation records for five years that include the following details:

- The amount of vacation time an employee earned since the start of employment but had not taken before the start of the vacation entitlement year.
- The amount of vacation time the employee earned during the vacation entitlement year.
- The amount of vacation time the employee took during the vacation entitlement year.
- The amount of vacation time (if any) the employee earned since the start of employment but had not taken as of the end of the vacation entitlement year.
- The amount of vacation pay the employee earned during the vacation entitlement year and how that amount was calculated.
- The amount of vacation pay paid to the employee during the vacation entitlement year.
- The amount of wages on which the employee's vacation pay in the vacation entitlement year was calculated and the period of time to which those wages relate.
- If the employer uses an alternate vacation year, the employer shall keep records of:
 - The amount of vacation time the employee earned during the stub period.
 - The amount of vacation time the employee took during the stub period.
 - The amount of vacation time (if any) the employee earned but had not taken during the stub period.
 - The amount of vacation pay the employee earned during the stub period and how that amount was calculated.
 - The amount of vacation pay paid to the employee during the stub period.
 - The amount of wages on which the employee's vacation pay in the stub year was calculated and the period of time to which those wages relate.



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EQUAL PAY FOR EQUAL WORK

An employer may not pay an employee at a rate of pay less than another employee on the basis of **sex**.

Where the two employees' perform substantially the **same kind of work** at the **same establishment**, which requires the **same skills, effort and responsibility**, under **similar working conditions** – they should receive equal pay.

Employers cannot lower employees' rates of pay to create equal pay for equal work.

Substantially the Same Kind of Work

Substantially the same does not mean EXACTLY the same. Actual work performed is what matters, not the stated conditions of the job offer or the job description.

Example: A party reviewing a complaint under this section will consider the duties actually undertaken and performed by two employees. Not what was based on the job description or job offer.



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Same Establishment

An establishment is a location where an employer carries on business. Two or more locations are considered a single establishment if:

- They are in the same municipality; or
- Employee seniority carries over between them.

Substantially the Same Skill, Effort and Responsibility

Skill refers to the amount of knowledge, physical skills or motor skills needed to perform a job. This includes:

- Education (diploma, degree);
- Training (apprenticeships);
- Experience (# of years required to master a skill); or
- Manual dexterity (hand-eye coordination).

Effort refers to what is regularly needed to perform a job, such as:

- Physical effort; and
- Mental effort.

Responsibility refers to:

- Number and nature of an employee's job responsibilities;
- Accountability;
- Authority the employee has for those responsibilities;
- Ability to make decisions and take action;
- Responsibility for the safety of others;
- Supervising other employees;
- Handling cash; and
- Amount of supervision over the employee.

Similar Working Conditions

Working conditions to consider include:

- Working environment;
- Exposure to the weather; and
- Health and Safety hazards.

Difference in Rates of Pay

What constitutes a difference in rate of pay:

- Hourly pay rate;
- Salary;
- Piece work rates;
- Overtime pay rate; and
- Commission rate.

This does **NOT** include a difference in benefit plans, vacation pay rates, tips or other gratuities, including tip pool percentages and expenses/travel allowance.



Equal Pay for Equal Work on the Basis of Sex

The ESA generally requires that employers pay men and women equally for equal work. Ontario's *Pay Equity Act* requires employers to pay women and men equal pay for work of equal value.

Men and women must receive equal pay for performing jobs that may be very different but are of equal or comparable value.

Exceptions

Employees can be paid different rates of pay if the difference is due to:

- Seniority;
- Merit; and/or
- Production quantity or quality.

Systems for determining pay differences cannot be based in any way on sex.

Employer Best Practices

In order to avoid issues, employers are encouraged to:

- Document the systems;
- Advise all employees of how the systems apply;
- Review their pay structures to ensure compliance with ESA;
- Develop a salary or wage rate grid;
- Post wage rates or scales for advertised job vacancies; and
- Avoid asking job applicants about prior compensation and benefits.



PUBLIC HOLIDAYS

Most employees who qualify are entitled to take these days off work and be paid public holiday pay. Alternatively, the employee can agree electronically or in writing to work on the holiday and be paid:

- Public holiday pay plus premium pay for all hours worked, and not receive another day off; or
- Be paid their regular wages for all hours worked on the public holiday and receive another substitute holiday for which they must be paid public holiday pay.

Ontario's Nine Public Holidays:

- | | | |
|-------------------|-----------------|---------------------|
| 1. New Year's Day | 4. Victoria Day | 7. Thanksgiving Day |
| 2. Family Day | 5. Canada Day | 8. Christmas Day |
| 3. Good Friday | 6. Labour Day | 9. Boxing Day |

NOTE: Easter Monday and Remembrance Day are not public holidays under the ESA. It is up to the employer's discretion to provide them as paid holidays.

The amount of public holiday pay to which an employee is entitled is all of the regular wages earned by the employee and vacation pay payable in the four work weeks before the work week in which the public holiday falls, divided by 20.

Regular wages does not include any overtime pay, vacation pay, public holiday pay, premium pay, , domestic or sexual violence leave pay, termination pay, severance pay or termination of assignment pay payable to an employee.

Performing Covered and Exempt Work

Some employees perform more than one kind of work for an employer. Some of this work might be covered by the public holiday part of the ESA, while another kind of work might be exempt from public holiday coverage.

Example: Rupert works for a taxi company as both a cab driver (work that is exempt from public holiday coverage) and a dispatcher (work that is covered by the public holiday part of the ESA). In the work week that Canada Day fell, at least half of Rupert's work was as a dispatcher. Because this work is covered by the public holiday part of the ESA, he is eligible for the public holiday entitlement for Canada Day.

Qualifying for Public Holiday Entitlements

Employees qualify unless:

- "Last and First Rule" – An employee fails **without reasonable cause** to work the entire last regularly scheduled day of work before the public holiday or all of their first regularly scheduled day of work after the public holiday; or
 - **Example:** Rosie's regular work week runs from Monday to Thursday. A public holiday falls on a Monday, and Rosie's workplace closes down that day. If Rosie works the entire shift on the Thursday before and the Tuesday after the holiday, or has reasonable cause for failing to attend work either of those days, she qualifies to be paid for the holiday.
- An employee fails **without reasonable cause** to work their entire shift on the public holiday that they either agreed or were required to work.

NOTE: Most employees who fail to qualify for the public holiday entitlement are still entitled to be paid premium pay for every hour they work on the holiday.



What is Reasonable Cause?

When an employee misses work when something **beyond their control** prevented the employee from working.

An employee is responsible for showing they have reasonable cause for not attending work. If he or she can do so, they will qualify for public holiday entitlements.

Premium Pay

Premium pay is 1½ times an employee's regular rate of pay. If an employee is entitled to receive premium pay for work on a public holiday, they must be paid 1½ times their regular rate of pay for each hour worked.

Example: Nathan's regular rate of pay is \$17.00/hour. This means that his premium pay will be **\$25.50** an hour. (\$17.00 x 1½).

Substitute Holiday

This is a day off work to replace a public holiday where the employee worked on the public holiday. The substitute day must be scheduled no later than **three months** after the public holiday for which it was earned.

If the employee has agreed electronically or in writing, the substitute day off can be scheduled up to **12 months** after the public holiday. The employer must provide the employee with a written statement confirming this.

Public Holiday & Employee's Non-Working Day

Where the public holiday falls on a day the employee is not scheduled to work the employee is entitled to either:

- A substitute holiday off with public holiday pay; or
- Public holiday pay for the public holiday, if the employee agrees to this (electronically or in writing) the employee will not be given a substitute day off

Employee Agrees to Work on the Public Holiday

An agreement must be electronic or written. Employee has two options:

1. Receive regular wages for all hours worked, plus a substitute day off work with public holiday pay; or
2. Receive public holiday pay for the public holiday plus premium pay for all hours worked on the public holiday
 - Where this happens, the employee will not be given a substitute day off



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NOTE: If an employee agrees to work the public holiday but fails to, they have no right to public holiday pay or to a substitute day off with pay.

However, if the employee has a reasonable cause for not working the public holiday, then entitlements will depend on:

- If the employee has agreed to work on the public holiday for regular wages plus a substitute day off with public holiday pay, the employee is entitled to a substitute day off with public holiday pay; or
- If the employee has agreed to work on the public holiday for holiday pay plus premium pay for each hour worked, they are entitled to be paid public holiday pay for the holiday. The employee is not entitled to receive any premium pay because they did not actually work.

Employee Works Only Some of the Hours

If the employee works only some of the hours they agreed to work, and does not have reasonable cause, the employee is only entitled to premium pay for each hour worked on the holiday. The employee has no right to public holiday pay or a substitute day off work.

Example: Trudi had agreed in writing that she would work an 8 hour shift on Canada Day, but she only worked 4 hours and did not have reasonable cause for failing to work the remainder of her shift. She is not entitled to public holiday pay or to a substitute day off work. Only premium pay for the 4 hours she worked.

However, if she had a reasonable cause for only working some of the hours, then she is entitled to her regular rate for all the hours worked plus a substitute day off work with public holiday pay, or she is entitled to be paid public holiday pay plus premium pay for every hour worked on the holiday. This depends entirely on what was decided in writing beforehand.

If Employment Ends

If employment ends before the employee can take the substitute day off for the foregone public holiday, the employer must pay the employee's public holiday pay at the same time it pays the employee's final wages. Regardless of the reason the job came to an end.

VACATION WITH PAY

Employees must receive a minimum of either 4% or 6% of the gross wages (excluding vacation pay) they earned for the 12-month vacation entitlement year or stub period.

0 – 5 years' service: 4%

5 or more years' service: 6%

Example 1: An employee has less than five years' employment on completion of a vacation entitlement year

Janice works part-time and earned gross wages of \$16,000.00 in her vacation entitlement year. She is entitled to four per cent of \$16,000.00 as vacation pay, i.e. **\$640.00**.

Example 2: An employee has less than five years' employment on completion of a stub period

Jocelyn was hired on September 1 and her employer has established an alternative vacation entitlement year that runs from January 1 to December 31. That means that Jocelyn's stub period is from September 1 to December 31. She earned \$13,050.00 in the stub period. She is entitled to four per cent of \$13,050.00 as vacation pay, i.e. **\$522.00**.

NOTE: Her first vacation entitlement year is January 1 to December 31. When she completes that vacation entitlement year, she will have earned four per cent vacation pay on the wages earned in that vacation entitlement year because she has been employed for less than 5 years.



Example 3: An employee has more than five years' employment on completion of a vacation entitlement year

Quinn, a part-time worker who has been employed for seven years with his employer, earned gross wages of \$16,000.00 in his vacation entitlement year. He is entitled to six per cent of \$16,000.00 as vacation pay, i.e. **\$960.00**.

Example 4: An employee reaches five-year employment threshold partway through a vacation entitlement year

Andrew has been employed for four years at the start of his current vacation entitlement year but reaches the five-year employment threshold partway through that year. He earned gross wages of \$16,000.00 in this vacation entitlement year. He is entitled to six per cent of \$16,000.00 as vacation pay, i.e. **\$960.00**.

If an employee's contract or collective agreement provides a better vacation benefit than the minimum required, the employee may be entitled to a higher percentage of their gross earnings for vacation pay. For example, an employee might be entitled under their contract to four weeks' vacation, with eight per cent of gross earnings for vacation pay.

When to Pay Vacation Pay

In most cases, vacation pay earned during a completed vacation entitlement year or stub period must be paid to an employee in a lump sum before they take the vacation time earned.

Exceptions

1. When the vacation is taken in sub-1 week periods;
2. When the employee has agreed electronically or in writing that their vacation pay will be paid on each pay cheque as it accrues;
3. If the employee agrees electronically or in writing, the employer can pay the vacation pay at any time agreed to by the employee; and
4. If the employer pays the employee their wages by direct deposit into an account at a financial institution.
 - a. In this case, the employee must be paid vacation pay on or before the payday for the period in which the vacation falls

Vacation Pay for Sub-1 Week Vacation

The employee must be paid vacation pay on or before the pay day for the period in which the vacation falls.

Example: Alvaro is taking vacation from January 2 to January 8 inclusive, and the normal pay day that covers this period is January 30. He must be given his vacation pay on or before January 30.

Vacation Time Paid as Accrued

Wage statements may show clearly the amount of the vacation pay being paid, and must be shown separately from other amounts paid. Or the employer must issue a separate statement for the vacation pay being paid.

Example: Fraser's vacation entitlement year is January 1 to December 31, but he reached his five-year employment threshold on July 1. He was paid four per cent vacation pay between January 1 and June 30. On July 1, when Fraser reached his five-year employment threshold, his vacation pay for that vacation entitlement year increased from four to six per cent of all the wages earned in that vacation year. The additional two per cent vacation pay is due on the pay day for the pay period in which July 1 falls and will continue on pay periods from July 1 to December 31.



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Paid when Employer and Employee Agree

If the employee agrees electronically or in writing, the employer can pay the vacation pay at any time agreed to by the employee.

Employee Paid by Direct Deposit

If the employer pays the employee their wages by direct deposit into an account at a financial institution, the employee must be paid vacation pay on or before the payday for the period in which the vacation falls.

When Employment Ends

The employee must be paid any outstanding vacation pay when their employment ends for **any reason**.

The unpaid vacation must be paid within seven days of the employment ending or on what would have been the employee's next pay day, whichever is later.

Example 1 – The employee's period of employment is less than five years on termination of employment

Jenna was hired on April 1, 2017, and had a standard vacation entitlement year. On March 31, 2018, she had earned two weeks of vacation time and four per cent of the wages earned in the vacation entitlement year as vacation pay. Her employer scheduled her vacation for the two-week period beginning June 1, 2018, and her vacation pay was to be paid prior to the commencement of that vacation. However, Jenna quit her employment on May 15, 2018. When she quit, her employer was

required to pay her the vacation pay earned in the vacation entitlement year April 1, 2017, to March 31, 2018, plus the vacation pay earned in her last (incomplete) vacation entitlement year (being four per cent of the wages she earned between April 1, 2018, and May 15, 2018).

NOTE: The vacation pay must be paid within seven days of the date Jenna quit or by what would have been Jenna's next pay day, whichever is later.

Example 2 – The employee's period of employment is five years or more on termination of employment

Dini was hired on June 1, 2013, and had an alternative vacation entitlement year that ran from January 1 to December 31 each year. He reached his five-year employment threshold on May 31, 2018. His employment was terminated on August 1, 2018. He had no vacation pay outstanding for any previously completed vacation entitlement years. Dini's vacation pay for his last partially completed vacation

entitlement year is six per cent of the wages earned between January 1, 2018 and August 1, 2018, because he had reached the five-year employment threshold prior to the termination.

NOTE: The vacation pay must be paid within seven days of the date Dini's employment was terminated or by what would have been Dini's next pay day, whichever is later.



OVERTIME PAY

For most employees overtime begins after the employee worked 44 hours in a work week. Hours worked after 44 must be paid at the overtime pay rate.

NOTE: You cannot contract out of paying an employee overtime after 44 hours, unless there is an averaging agreement in place between the employer and employee.

Over time pay is 1½ times the employee’s regular rate of pay, often referred to as “time and a half”.

Example: An employee who has a regular rate of \$17.00/hour will have an overtime rate of \$25.50/hour ($17 \times 1.5 = 25.50$). The employee must therefore be paid at a rate of **\$25.50** an hour for every hour worked in excess of 44 hours in a week.

No Overtime on a Daily Basis

Overtime pay is not calculated on the basis of the hours an employee worked in a day. It can only be calculated on a weekly basis or over a longer period under an averaging agreement.

Paying Overtime is Mandatory

Employers may not contract out paying overtime or lower pay during overtime hours. However, they may establish averaging agreements or request time in lieu instead of pay.

NOTE: Managers and supervisors do not qualify for overtime if the majority of the work they do is managerial or supervisory. Other exceptions include firefighters, fishing or hunting guides, landscape gardeners, etc. For a complete listing of exceptions, please refer to the ESA regulations.

