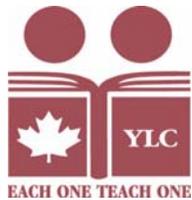
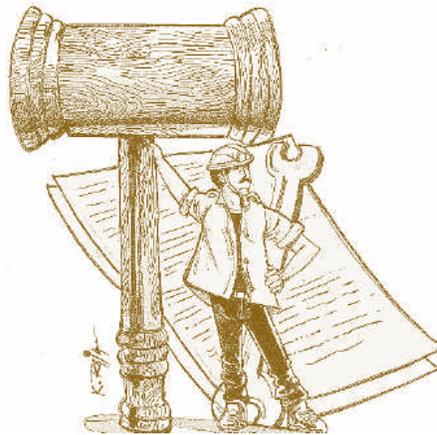
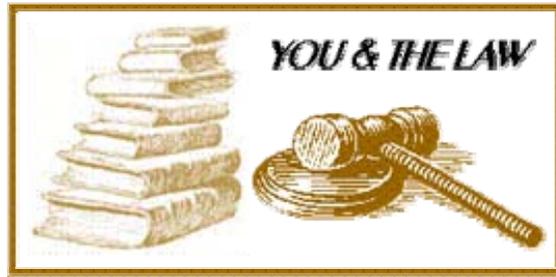


EMPLOYMENT LAW & LABOUR STANDARDS STUDENT MANUAL



**YAMASKA
LITERACY
COUNCIL**



Also published by the Yamaska Literacy Council, as part of the **You and the Law** series:

<u>Wills</u>	<u>Health Law</u>	<u>Employment Law & Labour Standards</u>
Tutor Manual Student Manual	Tutor Manual Student Manual	Tutor Manual

Published by:

Yamaska Literacy Council
239, rue Principale
Cowansville, QC J2K 1J4

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Produced in:

Quebec, 2006

ISBN 0-9782115-5-3

Acknowledgements:

“**You and the Law**” series was published by the Yamaska Literacy Council as part of an IFPCA funded project. Document produit dans le cadre des Initiatives fédérales-provinciales conjointes en matière d’alphabétisation (IFPCA).



You and the Law: Employment Law & Labour Standards Student Manual

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<u>Vocabulary</u>		
Abusive	ă-byoo-siv	To be insulting, to treat someone or something poorly.
Benefits	ben-ě-fitz	A payment made under a private or government program.
Collective agreement	kō-lek-tiv ă-gree-ment	A work contract that covers people in a group working for the same employer.
Confidential	kon-fi-den-shāl	To be kept secret.
Consecutive	kōn-sek-yŭ-tiv	Following one after the other, with no interruption.
Contract	kōn-trakt	An agreement between two people or companies where each person or company agrees to do something.
Deduct	di-dukt	To remove from, to make smaller by some amount.
Dismissal	dis-mis-ul	Being fired from your job.
Employee	em-ploi-ee	Someone who works for an employer and is paid a salary.
Environment	en-vīr-ōn-měnt	A certain setting, such as where you work, or your home.
Fatal	fay-tāl	Causing death or destruction.
Good cause	guud kawz	Good reason to dismiss or fire someone from a job.
Harassment	hă-ras-ment	On-going attacks and criticism causing worry and distress.
Hostile	hos-tīl	Unfriendly.
Humiliating	hyoo-mil-i-ayt-ing	Shameful or embarrassing.
Integrity	in-teg-ri-tee	Quality of being whole or complete, in one piece, in perfect condition.
Maintain	mayn-tayn	To keep up, to keep in good condition.
Mediator	mee-di-ay-tor	A person who helps two people reach an agreement.
Offensive	ō-fen-siv	Causing insult or injury.
Rate	rayt	Amount of wages paid per hour, day or month.
Repetitive	ri-pet-ī-tiv	Repeating.
Wrongful dismissal	rawng-fŭl dis-mis-ul	Being fired from your job for no good reason.

Section 1:

Employment Law in Quebec

- 1.1 What is an employment contract?
- 1.2 Does an employment contract have to be in writing?
- 1.3 What does my employer have to do?
- 1.4 What do I have to do as an employee?
- 1.5 What are labour standards?
- 1.6 Who is covered under the labour standards law?
- 1.7 Who is not covered under the labour standards law?
- 1.8 What is the *Commission des normes du travail* (Labour Standards Commission)?



Section 1: Employment Law in Quebec



1.1 What is an employment contract?

An employment **contract** is an agreement between the employer and the **employee**.

In an employment **contract**, the **employee** agrees to work for the employer, and the employer agrees to pay the **employee** for the work done.

Other details can be in the employment **contract**, such as when and where the work is to be done, the salary to be paid, vacation, etc.

The employer and the **employee** decide what is in the **contract**. However, the employment **contract** is also subject to other laws in Quebec, including the *Civil Code of Quebec*, the *Act respecting Labour Standards* (labour standards law), worker's compensation (CSST), etc.

These laws tell the employer and the **employee** what they must do, or not do.

Some people have a **collective agreement**. This means a group of people has the same employment contract with their employer. You have a **collective agreement** when you belong to a union.

Contract

An agreement between two people or companies where each person or company agrees to do something.

Employee

Someone who works for an employer and is paid a salary.

Collective agreement

A work contract that covers people in a group working for the same employer.

1.2 Does an employment contract have to be in writing?

No, the employment contract does not have to be in writing.



A contract means two people have agreed to something. There is an employment contract if an employee shows up at work, does the work, and is paid by the employer. It is important that both the employer and the employee agree on what the employee is to do, and how much the employee will be paid.

However, a written contract helps if there is a disagreement about the contract. It is easier to prove what the employer and employee agreed to if you have a written contract.

1.3 What does my employer have to do?

Your employer has to:

- give you the tools, equipment and other things you need to work, including a workplace;
- give you the work you are supposed to do;
- pay you for the work you do;
- make sure your workplace is safe for your physical and mental health;
- give you enough notice (warning) that he/she does not need you to work any more if your contract does not include an end-date;
- pay you a certain sum if he/she does not give you enough notice when ending your job;
- treat you with respect and protect your dignity. Your employer must also make sure the other employees and customers treat you with respect.

You and your employer can change some of these conditions. For example, you might want to use your own tools.

The employer cannot change certain things, such as minimum wage, paid holidays or overtime.

? 1.4 What do I have to do as an employee?

As an employee, you must:

- do the work you are supposed to do;
- do the work yourself;
- do what your supervisor tells you to do, unless it would put you or your co-workers in danger;
- be loyal to your employer. This means you cannot use **confidential** information you learned at work for your own profit. For example, you cannot use your employer's customer list to try and get customers for a business you are running on the side.



Confidential

To be kept secret.

1.5 What are labour standards?

The *Act Respecting Labour Standards*, the labour standards law, sets the minimum work conditions for employees in Quebec.

The law sets rules about:

- psychological **harassment** at work;
- the number of paid vacation days you can take;
- the number of overtime hours a week you can work;
- the number of hours in a normal workweek;
- uniforms;
- meal breaks;
- coffee breaks;
- holidays;
- sick and family leaves;
- **dismissal**;
- notice of **dismissal**.

Harassment

On-going attacks and criticism causing worry and distress.



Dismissal

Being fired from your job.

The Act will tell you what the labour standards are in Quebec.

1.6 Who is covered under the labour standards law?

In general, most employees in Quebec are covered under the law. An employee is someone who works for an employer and is paid wages.

? 1.7 Who is not covered under the labour standards law?

The labour standards law does not cover:

- students being trained in their profession;
- people who run their own business;
- sitters who sometimes take care of children, sick or elderly people in their own homes;
- people who are covered under federal law, such as those who work in a bank, for the Canadian government, radio or television stations, etc.

Some people are covered under another law. However, they are still protected by the labour standards law in certain cases:



- construction workers are covered under the sections on psychological **harassment**, family leave and forced retirement;
- farm workers are covered under the sections on minimum wage, annual vacation and psychological **harassment**;
- live-in caregivers are covered under the sections on minimum wage, the regular workweek, and psychological **harassment**.

NOTE:

Your employer can improve the conditions under the labour standards law. However, your employer can never give you less than what is given under the labour standards law.

For example, the minimum wage is \$7.75 per hour. Your employer can pay you \$10.00 per hour, but not \$6.00 per hour.



1.8 What is the *Commission des normes du travail* (Labour Standards Commission)?

The *Commission des normes du travail* (Labour Standards Commission) is the government body responsible for making sure the labour standards law is applied.

The Commission:

- informs the public about labour standards in Quebec;
- handles complaints from employees;
- can pay employees money they are owed by their employer.

You can contact the Commission for information about the labour standards law in Quebec, or to file a complaint. Information on how to contact the Commission is provided in Section 8.3.

NOTES

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Section 2:

Psychological Harassment

at Work

- 2.1 What is psychological harassment?**
- 2.2 Who is protected against psychological harassment?**
- 2.3 Does the harasser have to be a co-worker?**
- 2.4 Can I be psychologically harassed at work if the act only happened once?**
- 2.5 What is sexual harassment at work?**
- 2.6 What can I do if I am psychologically or sexually harassed at work?**
- 2.7 What should my employer do if I am being psychologically or sexually harassed at work?**
- 2.8 What if I keep being harassed?**



Section 2: Psychological Harassment at Work



2.1 What is psychological harassment?

You may be a victim of psychological **harassment** at work if the following four (4) conditions exist:

1. Somebody at work acts in a way that is **humiliating**, **offensive** or **abusive** to you. A reasonable person in the same situation as you must also find this act troubling.

Humiliating

Shameful or embarrassing.

Offensive

Causing insult or injury.

Abusive

To be insulting, to treat someone or something poorly.

Repetitive

Repeating.

This behaviour must be **repetitive** or **serious**.

What matters is not each act on its own, but all the acts taken together. Sometimes one act does not seem very harmful. However, all the acts taken together might make you feel badly.

One act can also be considered psychological harassment if it is very serious and you feel badly for a long time after; **and**

2. The act or acts is/are **hostile** or **unwanted**.
Hostile means unfriendly.

Unwanted means you do not welcome the act, even if you do not say so out loud. You can tell someone you do not like the way they are acting with body language, for example, by the way you stand, or the look on your face; **and**

3. The act or acts harm your **dignity** or psychological or physical **integrity**.

You feel ashamed or worthless because of the unwelcome act or acts. Your physical health may also suffer. For example, you get headaches, stomach-aches, or want to throw-up; **and**

Integrity

Quality of being whole or complete, in one piece, in perfect condition.

4. You work in a **poisoned** work **environment**.

This means you do not feel welcome in your workplace. You feel distanced/isolated/set apart from the other workers, or you are afraid to talk to your boss or another supervisor.

Environment

A certain setting, such as where you work, or your home.

You may suffer from psychological harassment only if **all four** of the above conditions exist.

Note:

You can be psychologically harassed at work even if the harasser did not mean to harass you. What matters is how you feel because of the behaviour.

.../

Some examples of psychological harassment include:

- Making rude, insulting or **offensive** remarks.
- Making gestures meant to scare a person; getting back at someone.
- Discrediting the person: spreading rumors, making fun of him, **humiliating** him, calling into question his beliefs or his private life, shouting abuse at him or sexually harassing him.
- Belittling the person: forcing him to do tasks that are belittling or below his skills.
- Preventing the person from expressing himself: yelling at him, threatening him, constantly interrupting him, not letting him speak to others.
- Isolating the person: no longer talking to him at all, pretending he does not exist, distancing him from others.
- Making fun of a person's beliefs, tastes and political choices.



2.2 Who is protected against psychological harassment?

Every employee in Quebec covered under the labour standards law is protected against psychological harassment at work.

The law also protects managers, construction workers, farm workers and live-in caregivers against psychological harassment.

? 2.3 Does the harasser have to be a co-worker?

No. You can be psychologically harassed at work by:

- a co-worker;
- a boss;
- a customer of the company;
- a supplier of the company.



? 2.4 Can I be psychologically harassed at work if the act only happened once?

Yes. Usually an act must be repeated several times before it is considered psychological harassment. However, the act can be considered harassment if:

- the act is very serious, and
- it continues to have a harmful effect on you for a long time.



2.5 What is sexual harassment at work?

Sexual harassment is a form of psychological harassment under the labour standards law.

You are being sexually harassed at work if:

- Someone at work is behaving in a sexual way toward you. This means sexual comments, acts, or physical contact, **and**
- This behaviour is usually repeated, **and**
- You do not want or welcome this behaviour, **and**
- The behaviour has a negative effect on your job. This can mean you are dismissed, or punished, or your workplace **environment** is poisoned.

Flirting is not the same as sexual harassment. If you flirt, you like or welcome the sexual behaviour. Harassment means you do not want or welcome the behaviour. You are being sexually harassed if you tell the person you do not want him/her to continue acting this way, and the person does not stop.

Remember not everyone takes things the same way. You might not like or welcome someone's behaviour. Someone else might. For example, you might not like it when Joe pinches you on the behind every morning, but Maria thinks it is just a joke. Once you tell Joe to stop pinching you, and Joe keeps pinching your behind, you are being sexually harassed.



2.6 What can I do if I am psychologically or sexually harassed at work?

If possible:

- Talk to someone you trust about the problem you are having. Do not remain alone with your problem.
- Tell the harasser very clearly that you want this behaviour to stop right away. If you can, make sure someone else is with you during this conversation.
- If this doesn't work, try to note down in writing the times you are psychologically or sexually harassed. Write down the details such as the time and date, where, what was said or done, who was there, etc.
- Talk to other workers and see if other people are also being harassed.
- Check with your employer to see if there is a way that your report of the unwanted behaviour can be kept **confidential**.
- Tell your employer. Your employer must take steps to stop this behaviour. (If your employer is the harasser, see Section 2.8 on filing a complaint.)

2.7 What should my employer do if I am being psychologically or sexually harassed at work?

Your employer must do two (2) things:

- **Prevent** psychological or sexual harassment at the workplace. The employer can do this by having company rules against psychological or sexual harassment. Your employer can also name an employee to make sure there is no workplace harassment.
- **Stop** any psychological or sexual harassment that happens at the workplace. The employer must listen to you if you think you are a victim of harassment, look into your complaint, talk to the people involved, and take other steps to stop the harassment.

2.8 What if I keep being harassed?

If your employer does nothing, or if the harassment continues, you can file a complaint. You file the complaint against your employer, not the harasser, because your employer is supposed to make sure you are not harassed at work.

Where to file a complaint

Psychological harassment:

Where you file your complaint depends on what type of employee you are.

- If you are non-unionized, or are a manager in a private company, file your complaint with the *Commission des normes du travail* (Labour Standards Commission). You have **90 days** following the last act of harassment to file a complaint.

The Commission will decide if there is enough reason to look into your complaint. If it decides to continue with your complaint, it can name a person, called a **mediator**, to try to get you and your employer to solve the problem together.

Mediator

A person who helps two people reach an agreement.

If you and your employer cannot agree on how to solve the problem, the Commission will send your complaint to the *Commission des relations du travail* (Labour Relations Commission). This Commission will hear both of you and decide what to do.

- If you belong to a union and have a **collective agreement**, follow the steps in the agreement;
- If you work for the Quebec government, file your complaint with the *Commission de la fonction publique* (Public Service Commission).

Sexual harassment:

Sexual harassment is a kind of psychological harassment. If you are sexually harassed at work, you can file a complaint for psychological harassment with the *Commission des normes du travail* (Labour Standards Commission). See the above section.

.../

You can file a complaint for sexual harassment in the following ways:

- file a complaint with the *Commission des droits de la personne et des droits de la jeunesse du Québec* (Quebec Human Rights Commission);
- get a lawyer and sue for damages in the regular courts;
- file a claim for compensation with the *Commission de santé et de sécurité au travail* (the CSST, or worker's compensation). You can do this if you suffer physical or mental problems because of very serious sexual harassment.

Information on how to contact these organizations is provided in Section 8.3.

NOTES

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Section 3:

Leave, Vacation and Holidays

- 3.1 What is leave?
- 3.2 Can I take leave if someone in my family dies?
- 3.3 Can I take leave if I get married?
- 3.4 Can I take leave if I am sick?
- 3.5 Can I take leave to take care of my family?
- 3.6 Can I take leave if I am pregnant?
- 3.7 How much leave can I take when I give birth or adopt a child?
- 3.8 How much leave can I take after I give birth or adopt a child?
- 3.9 Can I take paid vacation?
- 3.10 How much paid vacation can I take?
- 3.11 Can I take paid vacation if I work part-time?
- 3.12 Can I take the money and keep working?
- 3.13 Can I take unused vacation time later?
- 3.14 What happens if my company shuts down for vacation?
- 3.15 Can my employer decide when I take vacation?

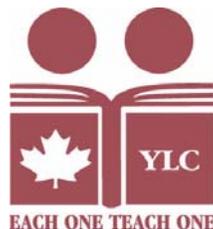
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Section 3:

Leave, Vacation and Holidays

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- 3.16 Can my employer refuse to pay me my vacation pay before my vacation?
- 3.17 What if I quit or am fired before I take my vacation?
- 3.18 What is a holiday?
- 3.19 Which days are holidays?
- 3.20 Am I paid for a holiday?
- 3.21 What if I work on a holiday?



Section 3: Leave, Vacation and Holidays

? 3.1 What is leave?

Leave means you can miss work for a good reason. Usually you take leave when you get married, have a child, or someone in your family is sick and needs care or has died.

Your employer cannot dismiss you because you took leave.

Leave is either **paid** or **unpaid**.

? 3.2 Can I take leave if someone in my family dies?

You can take **one (1) day's paid** leave and up to **four (4) more days unpaid** leave from work if the person who died is:

- your child;
- your spouse;
- your mother or father; or
- your brother or sister.



.../

You can take **one (1) day's unpaid** leave if the person who died is:

- your son-in-law or daughter-in-law;
- your grandmother or grandfather;
- your mother-in-law or father-in-law; or
- your brother-in-law or sister-in-law.

3.3 Can I take leave if I get married?

Yes, you can take **one (1) day's paid** leave on the day you get married or enter into a civil union.

You can take **one (1) day's unpaid** leave to go to the wedding of:

- your child;
- your spouse's child;
- your mother or father; or
- your brother or sister.



You must tell your employer **one (1) week** ahead of the wedding that you will not be at work that day.

? 3.4 Can I take leave if I am sick?

Your employer does not have to pay you for the days you cannot work because you are sick.



You can take **unpaid** leave up to **twenty-six (26) weeks** per year if you are sick or were in an accident, provided you have worked for the same employer for **at least three (3) months**.

You must tell your employer as soon as possible if you are taking sick leave, and explain why.

You can ask for employment insurance **benefits** for up to **fifteen (15) weeks** if you cannot work because you are sick. For more information, contact your nearest Employment Insurance office and ask about *sickness benefits*. See Section 8.3 for contact information.

Benefits

A payment made under a private or government program.

? 3.5 Can I take leave to take care of my family?

You can take up to **ten (10) unpaid days** per year off work to look after the **care, health, or education** of:

- your children,
- or your spouse's children.

.../

You can take up to **ten (10) unpaid days** per year off work to look after the **health** of:

- your spouse;
- your mother or father;
- your brother or sister; or
- your grandmother or grandfather.

You can take up to **twelve (12) weeks** off work per year if you have been working for the same employer for **at least three (3) months**, and you need to look after one of the following family members who is very sick or has had a serious accident:

- your child;
- your spouse;
- your spouse's child;
- your mother or father;
- your brother or sister; or
- your grandmother or grandfather.

Your employer does not have to pay you during this leave.

You must tell your employer as soon as possible if you are taking leave, and explain why.

You can take up to **one hundred and four (104) unpaid weeks** off work if your minor child has a serious and possibly **fatal** illness.

Fatal
Causing death or
destruction.

You can ask for employment insurance **benefits** for up to **six (6) weeks** if you cannot work because you need to care for a family member who is very sick and may die within **twenty-six (26) weeks**. For more information, contact your nearest Employment Insurance office and ask about *compassionate care benefits*. See Section 8.3 for contact information.

3.6 Can I take leave if I am pregnant?

You can take as much leave as you need to go to medical appointments if you are pregnant.

You will not be paid for any of this time off.

You must tell your employer as soon as possible that you will be missing work to go to an appointment.





3.7 How much leave can I take when I give birth or adopt a child?

You can take up to **five (5) days** leave after the birth or adoption of your child.

You and your spouse can also take up to **five (5) days** leave if you miscarry or have an abortion during or after the **20th week** of pregnancy.

However:

- the first **two (2) days** of the leave are **paid** if you have been working at least **sixty (60) consecutive** days for the same employer;
- the other days are **unpaid**;
- all **five (5) days** will be **unpaid** if you have been working less than 60 **consecutive** days for the same employer;
- you must tell your employer as soon as possible that you are taking leave; and
- you must take the leave within **fifteen (15) days** of the event.

Consecutive

Following one after the other, with no interruption.

? 3.8 How much leave can I take after I give birth or adopt a child?

A female employee can take up to **eighteen (18) consecutive weeks unpaid** maternity leave. The leave can be taken before or after the birth or adoption of her child.

The employee must give her employer written notice at least **three (3) weeks** before she takes maternity leave. She must also tell the employer the date she expects to return to work.

The father can take up to **five (5) consecutive weeks unpaid** paternity leave. Paternity leave can be taken any time during the **fifty-two (52) weeks** after the birth or adoption, but cannot begin before the child is born or adopted.

Either parent can take up to **fifty-two (52) weeks unpaid** parental leave after the birth or adoption of their child. The parents can share the parental leave. They can take the leave one after the other, or both at the same time. Parental leave is in addition to the maternity or paternity leave.

For example, John and Jane have a baby. Jane takes five (5) days of leave when the baby is born, plus eighteen (18) weeks maternity leave. John takes five (5) days of leave when the baby is born, plus five (5) weeks paternity leave after that. He then takes thirteen (13) weeks of parental leave while Jane is on maternity leave. Jane takes the remaining thirty-nine (39) weeks of parental leave and John goes back to work.



.../

Or, John and Jane have a baby. Jane takes five (5) days of leave when the baby is born, plus eighteen (18) weeks maternity leave. She then takes the full fifty-two (52) weeks of parental leave. John takes five (5) days of leave when the baby is born, plus five (5) weeks paternity leave after that. John goes back to work.

Note:

You can apply for maternity, paternity, parental or adoption **benefits** under the new *Quebec Parental Insurance Plan*. This new plan replaces the benefits paid under Employment Insurance. See Section 8.3 for information on how to contact the Minister of Employment and Social Solidarity.

? 3.9 Can I take paid vacation?

As a general rule, you can take a paid vacation if you are covered under the labour standards law.

? 3.10 How much paid vacation can I take?

It depends on how long you have been working for your employer and your employer's reference year.

The **reference year** is a **twelve (12) month** period chosen by your employer. If no reference year has been chosen, the legal period of May 1 to April 30 must be used.



The amount of paid vacation depends on if you have worked:

Less than one (1) year:

You get **one (1) day** of paid vacation per month worked by the end of the reference period, up to a maximum of two (2) weeks.

For example, you started working for your employer on July 1. The reference period is January 1 to December 31. You will have worked six (6) months by December 31, the end of the reference year. So, you can take six (6) days of paid vacation.

Between one (1) and five (5) years:

You get **two (2) weeks** of paid vacation if you have worked for the same employer between one (1) and five (5) years at the end of the reference year.

You can also ask to take one (1) more week of vacation without pay.

More than five (5) years:

You get **three (3) weeks** of paid vacation if you have worked five (5) or more years for the same employer at the end of the reference year.

The general rule is you must take your vacation all at once. You can split your vacation weeks if your employer lets you.

? 3.11 Can I take paid vacation if I work part-time?

Yes, you can take paid vacation even if you work part-time.

The same rule applies as for full-time employees.

The number of paid vacation days depends on how long you have worked for your employer.



If you have worked less than one year for the same employer, you can take one (1) day per month worked up to the end of the reference year. If you have worked four (4) years for the same employer, you can take two (2) weeks paid vacation. If you have worked more than five (5) years, you can take three (3) weeks paid vacation.

The amount you will get paid depends on how many hours you have worked during the reference year.

If you have worked **less than five (5) years**, you will get **4%** of your gross wages (before taxes and deductions). This works out to about two weeks pay.

If you have worked **more than five (5) years**, you will get **6%** of your gross wages (before taxes and deductions). This works out to about three weeks pay.

3.12 Can I take the money and keep working?

The general rule is that you must take your vacation.

However, you can decide to keep on working and take the money instead if you and your employer agree to this.

3.13 Can I take unused vacation time later?

Usually you have to take your vacation within **one (1) year** of your employer's reference year.

If you cannot take them within one (1) year, you and your employer must agree on when you can take your vacation.

3.14 What happens if my company shuts down for vacation?

Some companies close for vacation during the summer or over the Christmas holidays.

You usually take your vacation during this time. If your company shuts down for two (2) weeks, and you have three (3) weeks vacation, you can take your other week at another time.

However, you must take all three (3) weeks during this time if your company shuts down for three (3) weeks.

3.15 Can my employer decide when I take vacation?

Yes, your employer can decide when you can take vacation.

- Your employer can make you take your vacation when the business is not busy.
- Your employer can also refuse to let you take your vacation when the business is very busy.

3.16 Can my employer refuse to pay me my vacation pay before my vacation?

No. Your employer must pay you all your vacation pay before you begin your vacation.

If you take your vacation at two (2) different times, your employer only has to pay you for the time you are taking.

For example, you have three (3) weeks paid vacation. You decide to take two (2) weeks in the summer, and one (1) week at Christmas. Your employer must pay you the two (2) weeks in the summer, and the one (1) week at Christmas.

? 3.17 What if I quit or am fired before I take my vacation?

Your employer must pay you:

- any vacation days you haven't used from the last completed reference year, and
- 4% or 6% of your gross salary (before taxes) earned during the reference year, depending on how many years you have worked.

? 3.18 What is a holiday?

A holiday is a day where you normally do not work, but you get paid for that day.

? 3.19 Which days are holidays?

The following days are holidays in Quebec under the labour standards law:

- New Year's Day (January 1st)
- Good Friday or Easter Monday (the employer's choice)
- Patriot's Day or Victoria Day (3rd Monday in May)
- St. Jean Baptiste (June 24)
- Canada Day (July 1)
- Labour Day (1st Monday in September)
- Thanksgiving (2nd Monday in October)
- Christmas (December 25)



3.20 Am I paid for a holiday?

In order to be paid for the holiday, you must:

- be covered under the labour standards law;
- not have missed work the day before or after the holiday, unless you had a good reason or your employer gave you permission to miss work.

The only exception is June 24, St. Jean Baptiste, which is covered by a separate law. All employees are paid for this holiday.



You get paid holidays even if you only work part-time.

For example, you normally work Monday to Thursday every week. The holiday falls on a Monday. You would be paid for the holiday even though you did not work on Friday, the day before the holiday, because you do not usually work Fridays.

Another example would be if the holiday fell on a Friday. You missed work Wednesday and Thursday because you were sick. You would be paid for the holiday because you had a good reason for missing work the day before the holiday.

The paid holiday rules do not apply if you have a [collective agreement](#), or work in a company where there is a [collective agreement](#), and you already get seven paid holidays and June 24th.



3.21 What if I work on a holiday?

Your employer must pay you your normal wages **and**:

- pay you an amount usually **equal to one day's wages**; or
- offer you a **paid day off**.

If you want to be paid, your employer must pay you a certain amount. In general, this comes out to one day's pay.

If you want the paid day off, you must take it within **three (3) weeks** before or after the holiday.

NOTES

Section 4:

Salary and Overtime

- 4.1 How much is minimum wage?
- 4.2 What is a tip employee?
- 4.3 I am a tip employee. What is my salary?
- 4.4 What do I do if my employer called me in to work, then sent me home after just two (2) hours?
- 4.5 Does the employer have to pay me if he is trying me out for the job?
- 4.6 How often does my employer have to pay me?
- 4.7 I travel for work. Am I paid for my travel time?
- 4.8 What is overtime?
- 4.9 How much am I paid if I work overtime?
- 4.10 Can I take paid time off instead of the money?
- 4.11 Can I refuse to work overtime?



Section 4: Salary and Overtime

? 4.1 How much is minimum wage?

Minimum wage means the employer cannot pay the employee less than the **rate** set by the government. There are three (3) different minimum wage **rates**. The **rate** depends on the kind of job. As of August 2006:

Rate
Amount of wages paid per hour, day or month.

- the general **rate** is **\$7.75** per hour;
- the minimum wage for tip employees is **\$7.00** per hour;
- the minimum **rate** for workers in the clothing industry is **\$8.25** per hour.

The employer can pay an employee more than minimum wage, but never less. It depends on the agreement between the employer and employee.

? 4.2 What is a tip employee?

A tip employee is paid an hourly rate plus money left by the customer. Tip employees work in:

- a hotel;
- a restaurant that serves customers at the table;
- a campground;
- a bar;
- a restaurant that delivers.



? 4.3 I am a tip employee. What is my salary?

The salary for a tip employee includes the hourly minimum wage rate of \$7.00 plus all tips you get from customers.

If you get your tips **directly** from the customers, you must tell your employer **in writing** how much you received during each pay period. You must do so because your tips are part of your salary. Your employer must know the total amount you earned so he can know how much vacation and holiday pay to give you.



Do not forget that you must report your full income to the government on your **income tax** return. This includes the tips as well as your hourly salary.

Sometimes your employer collects the tip for you, for example, when the tip is automatically included in the bill. He must pay you these tips. You do not have to declare these tips on your income tax return if your employer has already added them to your salary.

Finally, your employer cannot force you to share your tips with other workers. You and the other workers can decide to share your tips, but you must **all agree**.

? 4.4 What do I do if my employer called me in to work, then sent me home after just two (2) hours?

Your employer must pay you for a minimum of three (3) hours work if he called you in, or you showed up for your normal workday and were sent home early.

? 4.5 Does the employer have to pay me if he is trying me out for the job?

Yes, the law says the employer must pay you at least minimum wage for any work you do.

? 4.6 How often does my employer have to pay me?

As a general rule, your employer must pay you at least every **sixteen (16) days**.



? 4.7 I travel for work. Am I paid for my travel time?

Your employer must pay you for the time you spend travelling if it is part of your job. This does not include the time you spend going to and from work each day.

? 4.8 What is overtime?

The normal workweek for most workers is **forty (40) hours**. The forty (40) hours includes time spent:

- waiting at the workplace for work;
- on breaks (not meal breaks, unless you work during the meal);
- travelling for work.

You work overtime when you work more than forty (40) hours. Your employer must pay you for hours worked overtime.



Some workers do not get paid overtime because they do not work a regular week. These include:

- workers who work outside the employer's workplace where the employer does not control the work hours;
- farm workers;
- workers who look after someone in their home.

4.9 How much am I paid if I work overtime?

The general rule is you are paid **one-and-a-half times** your regular hourly rate for every hour worked overtime.

For example, Susan worked forty-five (45) hours last week. Her regular workweek is forty (40) hours, so she worked five (5) hours overtime. Her regular hourly rate is \$10.00 per hour. Susan will be paid \$475.00 for that week:

$$\begin{array}{r} \$400.00 \text{ (40 hours X \$10.00)} \\ + \underline{\$ 75.00 \text{ (5 hours X \$15.00 in overtime)}} \\ = \$475.00 \end{array}$$

The overtime rate does not apply to evening or night shift premiums. If you are paid \$10.00 per hour, plus an evening premium of \$0.50 per hour, your overtime will be one-and-a-half of your regular hourly rate of \$10.00.

Overtime is based on weekly hours worked, not daily. For example, if you normally work three (3) days per week for eight (8) hours per day, your normal workweek is twenty-four (24) hours. Your employer asks you to work an extra four (4) hours per day, for a total of thirty-six (36) hours. The total number of hours worked is still less than forty (40), so you have not worked overtime.

4.10 Can I take paid time off instead of the money?

You can take the overtime in paid time off instead of money if:

- you agree to this;
- you ask to do so; or
- you are covered by a collective agreement.

For example, you work four (4) hours of overtime. Four (4) times one-and-a-half equals six (6). You can take six (6) paid hours off. You must take the time off within one year. If you do not, your employer must pay you the six (6) hours of overtime.

4.11 Can I refuse to work overtime?

As a general rule, you cannot refuse to work overtime. However, you do not have to work:

- more than **four (4) hours** more than the normal workday;
- more than **fourteen (14) hours** in the same day if the normal workday is ten (10) hours or more;
- more than **twelve (12) hours in a twenty-four (24) hour period** if you do not have set daily working hours;
- more than **fifty (50) hours in the same week** (unless you have a different regular workweek under the law).

.../

You do not have to work overtime if:

- you have to look after the care, health or education of your or your spouse's children;
- you have to look after the health of a family member.

However, you must have tried to find a way to look after your family without missing work. This means trying to find someone to look after the family member while you work.

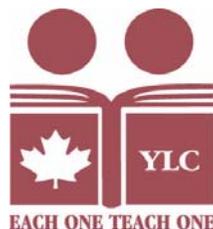
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Section 5:

Uniforms, Breaks and Weekly Rest

- 5.1 Who pays for my uniform?
- 5.2 Who pays for cleaning my uniform?
- 5.3 Am I allowed to take a coffee break?
- 5.4 Do I get paid for a coffee break?
- 5.5 How long do I have for my meal break?
- 5.6 Do I get paid for my meal break?
- 5.7 What if I work during my meal break?
- 5.8 How much weekly rest do I get?

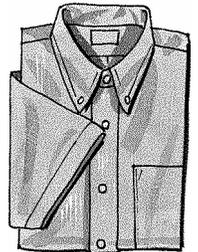


Section 5: Uniforms, Breaks and Weekly Rest

? 5.1 Who pays for my uniform?

It depends on how much you are paid and the clothing you must wear.

If you get paid **minimum wage**, the general rule is that your **employer must pay** if you have to wear **specific clothing**.



If you earn **more than minimum wage**, your employer can **deduct part of your salary** to pay for the uniform. The amount your employer **deducts** cannot reduce your salary to less than minimum wage.

Deduct

To remove from, to make smaller by some amount.

For example, your employer wants you to wear a uniform that costs \$100.00. You earn \$10.00 per hour and usually work twenty (20) hours per week for a total of \$200.00 per pay period. Your employer **deducts** \$50.00 from your first pay cheque to pay for the uniform, leaving you with \$150.00. Your employer cannot do this because it means you will be paid \$7.50 per hour, instead of the minimum wage of \$7.75 (or \$7.00 for tip employees).

The **employer must pay** for the uniform if it has the **company name** on it. It does not matter how much you earn.

? 5.2 Who pays for cleaning my uniform?

Your **employer must pay** for cleaning and **maintaining** your uniform if you get **minimum wage**.

Maintain

To keep up, to keep in good condition.

Your employer can **deduct** the costs of cleaning and **maintaining** your uniform **only if**:

- you make more than minimum wage; **and**
- you make minimum wage or more **after** your employer has **deducted** the cost of **maintaining** your uniform.



? 5.3 Am I allowed to take a coffee break?

You can take a coffee break if your employer says it is okay. You cannot take a coffee break if your employer does not permit coffee breaks.

? 5.4 Do I get paid for a coffee break?

If you can take a coffee break, your employer must pay you during this time. Your employer decides how long your break will be.

? 5.5 How long do I have for my meal break?

You can take a meal break of at least **thirty (30) minutes** after you have worked **five (5) hours** in a row.



5.6 Do I get paid for my meal break?

The general rule is you are not paid during your meal break.

5.7 What if I work during my meal break?

You must be paid if your employer makes you work during your meal break, such as answering the phones or supervising equipment.

5.8 How much weekly rest do I get?

The general rule is you are to have **thirty-two (32) consecutive hours** of rest each week.

The rule is different for farm workers. The rest period can be moved to the next week, but only if the employee agrees.

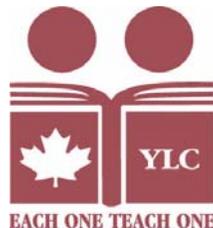
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Section 6:

Dismissal

- 6.1 Can my employer dismiss me?
- 6.2 When can my employer dismiss me?
- 6.3 What is good cause?
- 6.4 Does my employer have to give me notice before dismissing me?
- 6.5 How much notice does my employer have to give me?
- 6.6 What if my employer dismisses me without giving me notice?
- 6.7 Does my employer have to give me notice if I am laid off?
- 6.8 What is a work certificate and does my employer have to give me one?
- 6.9 How do I file a complaint if I do not think I should have been dismissed?
- 6.10 What happens after I file a complaint?



Section 6: Dismissal

? 6.1 Can my employer dismiss me?

Yes. Your employer can dismiss you. How you are dismissed depends on:

- how long you have worked for your employer, and
- if your employer has **good cause** for dismissing you.



Good cause

Good reason to dismiss or fire someone from a job.

? 6.2 When can my employer dismiss me?

Your employer can dismiss you because:

- there is no work for you to do;
- your contract is finished;
- your employer has **good cause** to dismiss you.

? 6.3 What is good cause?

Good cause means you did not act properly while at work. This can mean you:

- were often late for work;
- could not, or did not, do your job properly;
- did not follow directions;
- lied to your boss or supervisor;
- stole from work;
- endangered your co-workers.



? 6.4 Does my employer have to give me notice before dismissing me?

Yes, your employer must normally give you notice **in writing** before dismissing you.

However, you will not get a notice if:

- you have worked less than three (3) uninterrupted months for your employer;
- your job is supposed to end on a certain date;
- your employer has **good cause** for dismissing you; or
- there is no work because of an accident, like a fire, or a big storm.

6.5 How much notice does my employer have to give me?

Notice means your employer must let you know **in writing** a certain number of days before your job finishes. How many days depends on how long you have been working for your employer:

- you must be given **one (1) week's written** notice if you have been working between three (3) months and one (1) year;
- you must be given **two (2) weeks written** notice if you have been working between one (1) to five (5) years;
- you must be given **four (4) weeks written** notice if you have been working between five (5) to ten (10) years;
- you must be given **eight (8) weeks written** notice if you have been working more than ten (10) years.

6.6 What if my employer dismisses me without giving me notice?

Your employer must pay you if you were dismissed without the proper notice. You should be paid the salary you would have earned between the day you got the notice and the day you stopped working.

For example, you have worked six years for the same company. You show up for work one day and are told to go home, there is no more work for you. You should have been told four (4) weeks earlier that your job was going to end that day. Your employer owes you four (4) weeks salary because you were not given notice.



6.7 Does my employer have to give me notice if I am laid off?

You should receive notice if you are going to be laid off for **six (6) months** or longer.

Your employer must pay you if you were laid off without notice because:

- your employer did not know how long you were going to be laid off;
or
- the lay-off was supposed to be less than six (6) months;

and

- your employer does not call you back to work after six months.

You should be paid for the number of days notice you should have received. For example, you have worked for two (2) years. You should receive two (2) weeks salary because you should have been given two (2) weeks notice before the lay-off.

6.8 What is a work certificate and does my employer have to give me one?

You can ask your employer to give you a work certificate when your job ends.

A work certificate states:

- what you did;
- how long you were employed;
- when you started and ended work;
- your position;
- your employer's name and address.



The work certificate does not state if you were a good worker or not. It just gives details about your work.

A work certificate is not a Record of Employment, which your employer must give you when you stop work. You need the Record of Employment if you are going to apply for employment insurance benefits.



6.9 How do I file a complaint if I do not think I should have been dismissed?

Your employer has dismissed you for **good cause** without notice. You do not agree and do not think you should have been dismissed. You think this is **wrongful dismissal**. You can file a complaint with the *Commission des normes du travail* (Labour Standards Commission).

Wrongful dismissal

Being fired from your job for no good reason.

In order to file a complaint, you must:

- be an employee covered under the labour standards law;
- have worked for your employer for **two (2) consecutive years**;
- have been dismissed;
- have no other way of filing a complaint (such as under a collective agreement, another law, or your own employment contract).

You have **forty-five (45) days** after you are dismissed to mail or deliver your **written complaint** to the *Commission des normes du travail* (Labour Standards Commission). If you mail the complaint, it is best to send it by registered mail.

6.10 What happens after I file a complaint?

The Commission will first make sure it can look into your complaint. It will inform you in writing once it decides it can handle your complaint.

The Commission will then contact your employer. It will ask both you and your employer if you would like a **mediator**. A **mediator** is a person who will try and help you and your employer reach a solution that satisfies both of you. Everything you tell the **mediator** will remain **confidential**.

The Commission can also ask your employer to write down the reason(s) you were dismissed. You can ask for a copy of the reason(s).

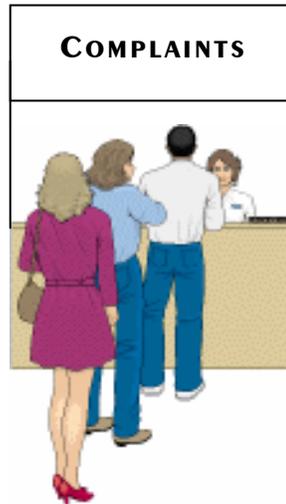
If the **mediator** cannot help you reach an agreement, your complaint will be sent to the *Commission des relations du travail* (Labour Relations Commission).

The Commission will listen to both sides during a hearing and make a decision. If it decides you were dismissed without good cause, it can:

- order your employer to give you back your job;
- order your employer to pay you the wages you would have earned (up to the date of the decision) had you not been dismissed;
- order your employer to take some other action, such as suspending you instead of dismissing you;
- order your employer to write you a reference letter;
- make any other order it thinks is required.

The Commission's decision is usually final, which means it cannot be changed. The decision can be contested in court, but only in special situations.

Contact the *Commission des normes du travail* (Labour Standards Commission) and the *Commission des relations du travail* (Labour Relations Commission) for more information on filing a complaint when you have been dismissed. See Section 8.3 for contact information.



NOTES

Section 7:

Exercising Your Rights

- 7.1 When should I file a complaint with the Labour Standards Commission?
- 7.2 How does the Labour Standards Commission handle complaints?
- 7.3 Is there a time limit to file a complaint with the Commission?



Section 7: Exercising Your Rights

? 7.1 When should I file a complaint with the Labour Standards Commission?

Your employer must obey the labour standards law. Contact the *Commission des normes du travail* (Labour Standards Commission) and file a complaint if your employer is not respecting one of your rights under the law.

? 7.2 How does the Labour Standards Commission handle complaints?

The Commission will look into your complaint. What will happen depends on the type of complaint.

1. If you complain about money your employer owes you (such as wages, overtime, holiday or vacation pay, paid breaks, etc.) and does not pay you, the Commission can pay you what you are owed.
2. If you complain about being dismissed or punished by your employer because, for example:
 - you could not work overtime, even though you tried to find a babysitter;
 - you are old enough to retire, but do not want to;
 - you filed a complaint with the Commission about something else;

- you spoke to the Commission about someone else's complaint;
- you are pregnant,

the Commission will try to settle the complaint between you and your employer. If this does not work, it will forward the complaint to the *Commission des relations du travail* (Labour Relations Commission). A hearing will take place and a decision will be made. If the Commission decides you should not have been dismissed, it can order your employer to give you your job back and pay you any salary you should have earned.



7.3 Is there a time limit to file a complaint with the Commission?

The time limit depends on the complaint.

If you are complaining you were dismissed without good reason, you have **forty-five (45) days** from the date you were dismissed to file your complaint.

You also have **forty-five (45) days** to file a complaint if you were dismissed because you could not work overtime, are pregnant, did not want to retire, talked to someone at the Commission, or filed a complaint about something else.

You have **ninety (90) days** from the date you were dismissed to file your complaint if you were dismissed because of your age, or if you are psychologically harassed at work.

NOTES

Section 8:

Activities and Resources

- 8.1 Discussion Questions
- 8.2 Word Search
- 8.3 Resources and Contact Info



Section 8: Activities and Resources

8.1 Discussion questions.

You and your tutor will discuss what you have read about employment law and labour standards.



8.2 Word Search

Work at finding the words.

C A H M K D Z M A E R E E C P Z
 O B P S O C K G M O V V O O X L
 N U D O T U R P T I I N H N Y D
 F S G H V E L A T S S O H T T Q
 I I W D E O I C N E S D G R I Y
 D V O M Y D E E C T N F N A R N
 E E E E E L F U I W S M I C G R
 N N E M L F T L R A T E T T E E
 T K L O O I E L E X F M A G T P
 I K C X V T N E M N O R I V N E
 A F W E W R O N G F U L L L I T
 L H A R A S S M E N T J I A V I
 B E N E F I T S H S K U M T W T
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 L A S S I M S I D K P A H F X V
 R Y K K T C U D E D V Z C X F E



ABUSIVE

AGREEMENT

BENEFITS

CAUSE

COLLECTIVE

CONFIDENTIAL

CONSECUTIVE

CONTRACT

DEDUCT

DISMISSAL

EMPLOYEE

ENVIRONMENT

FATAL

GOOD

HARASSMENT

HOSTILE

HUMILIATING

INTEGRITY

MAINTAIN

MEDIATOR

OFFENSIVE

RATE

REPETITIVE

WRONGFUL

8.3 Resources and Contact Info

COMPLAINTS:

COMMISSION DE LA FONCTION PUBLIQUE (PUBLIC SERVICE COMMISSION)

Information on filing a complaint for psychological harassment if you work for the Quebec government:

Toll free: 1-800-432-0432 (outside Montreal)

800 Place d'Youville, 7th floor Tel.: 418-643-1425
Quebec, QC G1R 3P4 Fax: 418-643-7264

COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE DU QUÉBEC (QUEBEC HUMAN RIGHTS COMMISSION)

Information on filing a complaint for sexual harassment:

Toll free: 1-877-226-7221

99, Place Charles-Le Moyne Tel.: 450-448-3739
Suite 105 Fax: 450-448-3583
Longueuil, QC J4K 4Y9

COMMISSION DES NORMES DU TRAVAIL (LABOUR STANDARDS COMMISSION)

For general information on labour standards in Quebec and how to file a complaint:

Information service

Toll free: 1-800-265-1414
Tel.: 514-873-7061
Monday to Friday, 8:00am – 5:00pm

MONTÉRÉGIE

Place Montérégie
101, boul. Roland-Therrien, bureau 300
Longueuil, QC J4H 4B9

Tel.: 450-928-5000
Toll-free: 1-800-667-0005
Fax: 450-646-1037
Toll free fax: 1-866-523-8302
Hours: Monday to Friday, 8:30am – 4:30pm

COMMISSION DES RELATIONS DU TRAVAIL
(LABOUR RELATIONS COMMISSION)

35 Port-Royal East, 2nd Floor
Montreal, QC H3L 3T1
Tel.: 514-864-3646
Fax: 514-873-3112
Toll free: 1-866-864-3646

COMMISSION DE SANTÉ ET DE SÉCURITÉ AU TRAVAIL
(WORKER'S COMPENSATION BOARD)

For information on workplace safety and security:

General Information: Tel.: 450-359-2100

145 boul. Saint Joseph
C.P. 100
Saint-Jean-sur-Richelieu, QC J3B 6Z1
Toll-free: 1-800-668-2204
Fax: 450-359-307

ÉDUCALOI

Information on many legal topics in everyday language.

POB CSP Notre-Dame
11 Notre-Dame Ouest
Montreal, QC H2Y 4A7

EMPLOYMENT INSURANCE

Information on employment insurance, sickness and compassionate care benefits, etc.:

Cowansville office
224 South St.
Cowansville, QC J2K 2X4
Toll free: 1-877-564-5864

MINISTÈRE DE L'EMPLOI ET DE LA SOLIDARITÉ SOCIALE
(MINISTER OF EMPLOYMENT AND SOCIAL SOLIDARITY)

Information on the Quebec Parental Insurance Plan:

Toll free: 1-888-610-7727



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website: 1Hwww.nald.ca/ylc



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