

KNOW YOUR RIGHTS DURING COVID-19

Know Your Rights | A Project of the Global Labour Research Centre | York University

KNOW YOUR RIGHTS DURING COVID-19 FACTSHEET COVERS

- Infectious Disease Emergency Leave (IDEL)
- Vacations
- Paid Sick Leave
- Safety at Work
- Workers' Compensation for Becoming Infected at Work

THE COVID-19 PANDEMIC AND ITS IMPACT ON YOUR EMPLOYMENT

- COVID-19 is a highly contagious respiratory illness that spreads through the air. It can be spread from one person to another when they are in close contact which is defined as being within two (2) metres or six (6) feet.
- Governments at all levels have enacted legislation or changed existing legislation in order to help prevent the spread of the virus and to support employees financially.
- There are rules in effect that require anyone entering or in a workplace to complete a pre-screening form, wear a mask, and remain physically distant from other workers.
- There is still debate over whether or not an employer can require an employee to be vaccinated or disclose their vaccination status.
- If you are unable to be vaccinated due to medical or religious reasons, then your employer must accommodate you.

INFECTIOUS DISEASE EMERGENCY LEAVE (IDEL)

- A primary change made to employment law in Ontario in response to the pandemic is the creation of Infectious Disease Emergency Leave (IDEL).
- The IDEL is currently in effect from January 25, 2020, until September 25, 2021.
- IDEL is a job-protected leave meaning that when it ends your employer must allow you to return to work.
- IDEL is an unpaid leave.
- If you are on IDEL then you may be eligible for government benefits to assist you.
- Your employer may request reasonable evidence for you to take IDEL, however, they cannot require a note from a medical practitioner.

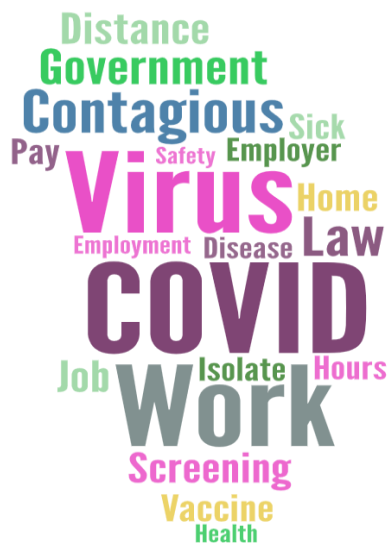


Employee Decides to Take IDEL

Under the following circumstances an employee may stay home rather than report to work and take IDEL:

1. They are under medical investigation, supervision, or treatment related to an infectious disease.

2. They are required to self-isolate (quarantine) due to possible exposure to an infected person.
3. They have tested positive for COVID-19.
4. They are awaiting the results of a COVID-19 test.
5. They are providing care or support to a family or household member who has contacted COVID-19.
6. They are staying home to care for a child whose school or daycare has closed or who is staying at home due to the fear of contracting COVID-19.
7. If they have two (2) employers (e.g., at two long-term care homes) and government restrictions prohibit them from working for both employers, they may take IDEL from the employer that they are temporarily not working for.
8. If they are unable to return to Canada or they are in quarantine after returning to Canada.



If the Employer Places an Employee on Temporary Lay-off

- Under the IDEL, if your employer is forced to temporarily close or reduce their business or if they have reduced business due to COVID-19, then they may place you on an IDEL temporary lay-off.
- This means that you are on job-protected leave.

- If you were receiving work-related benefits on May 29, 2020, then your employer must continue your benefits while you are on IDEL.
- When IDEL ends your employer may still place you on temporary lay-off under the Employment Standards Act (ESA).
- Temporary lay-off under the ESA is for a maximum of 13 weeks in a 20 week period, or 35 weeks in any period of 52 consecutive weeks if your employer tops up your Employment Insurance earnings or continues to provide you with your benefits coverage.
- If your employer does not call you back to work after September 25, 2021 or puts you on temporary lay-off beyond the allowed period, then they have broken the employment contract and owe you pay in lieu of notice. This may take the form of termination pay. If you have been working with them for five (5) years or longer it may also include severance pay.
- They cannot refuse to pay this. If they do, you may contact the Ministry of Labour, Training & Skills Development and make a complaint or hire a lawyer and start a lawsuit.

Reduction in Working Hours or Pay

If your employer has reduced your hours of work or your rate of pay due to COVID-19 under the IDEL then you may also be eligible for government benefits to assist in making up for this lost income. They may only do this until IDEL ends.



VACATIONS

- Your employer has the right to set your vacation dates as long as they comply with ESA requirements. These are:
 1. Two (2) weeks of paid vacation (or 4% of pay) each year, after twelve (12) months of employment.
 2. Three (3) weeks of paid vacation (or 6% of pay) each year, after five (5) years of employment.
- Your employer may require you to take your vacation before they place you on IDEL.

PAID SICK DAYS

- Another change made to employment law is the creation of up to three (3) paid sick days in the period from April 19, 2021, to September 25, 2021.
- Your employer cannot require a note from a medical professional, however, they may request reasonable evidence such as your notice of appointment for a vaccination or COVID test.
- If your employer does not regularly provide paid sick days then they must now provide you with these paid sick days if you need to take them for COVID-related reasons. These include:
 1. If you need to take days off due to COVID symptoms.
 2. If you have been sent home from work due to possible exposure to an infected person.
 3. If you need to take time to get COVID tested.
 4. If you must stay home to take care of a child due to their school or daycare closing.
 5. If you have to stay home to take care of a family or household member who is ill from COVID.
 6. If you need to take time off to attend a clinic to get vaccinated.
 7. If you need to take time off due to side effects from the COVID vaccine.



SAFETY AT WORK

The Occupational Health and Safety Act provides all workers with three (3) key rights:

1. *The Right to Know.* This means that you must be trained in safe work practices and made aware of any potential hazards in your workplace.
2. *The Right to Participate.* This means that if your workplace regularly employs 20 or more people then there must be a Joint Health and Safety Committee in place. If it employs less than 20 people there must be a trained safety representative.
3. *The Right to Refuse Unsafe Work.* This means that if you believe that the working conditions or any equipment are unsafe, then you can refuse that work until it has been made safe, to your satisfaction. If you do not believe that it is safe then the Ministry of Labour, Training & Skills Development must be informed and they will send an inspector to investigate. Your employer cannot punish you for making a complaint. If they do so, that is considered to be a reprisal which is against the Act.

WORKERS COMPENSATION FOR BECOMING INFECTED AT WORK

- If you believe that you have become infected with COVID-19 due to exposure at your workplace then your employer must file a claim with the Workplace Safety & Insurance Board.
 1. Your employer must file a Form 7 and provide you with a copy.
 2. Your medical practitioner may be required to file a Form 8 on your behalf.
 3. You will be sent a Form 6 by the WSIB which you are to complete and return to them.
 4. The WSIB will provide you with benefits for as long as you are unable to return to work due to COVID-19 symptoms.
- WSIB benefits are up to 85% of your take-home pay.
- The WSIB will also cover any required medical expenses related to your illness.



GOVERNMENT BENEFITS AND ASSISTANCE

- Employees who take unpaid infectious disease leave may be entitled to Employment Insurance (E.I.) benefits and other federal government financial supports, such as the Canada Recovery Benefits (CRB).

- Learn more about the Employment Insurance benefits and other federal support by visiting <https://www.canada.ca/en/services/benefits/covid19-emergency-benefits.html>
- To know further who qualifies for Canada Recovery Benefit (CRB), Canada Recovery Sickness Benefit (CRSB), Canada Recovery Caregivers Benefits (CRCB), and Employment Insurance (EI) benefits, please visit <https://stepstojustice.ca/legal-topic/covid-19/covid-19-employment-and-work/>



COVID-19 RELATED SAFETY REQUIREMENTS

1. Your employer must pre-screen everyone before they enter the workplace. Anyone who answers 'yes' to any of the required pre-screening questions should not be allowed to enter.
2. Your employer must have a COVID Safety Plan posted in the workplace and must train all workers in it.
3. Your employer must have signs posted at the entrances to the workplace informing everyone of the requirement to wear face masks.
4. Everyone in the workplace should be wearing a face mask at all times unless:
 - i. They are eating, or
 - ii. They are in an office or work area that is physically separated from other workers.

5. Those who cannot wear a face mask due to medical or religious reasons must be offered accommodation.
6. Physical distancing is to be maintained in the workplace. If your work duties mean that you cannot remain at least two (2) metres or six (6) feet away from others, then either
 - i. A physical barrier such as a plexiglass screen is to be installed, or
 - ii. You must wear a face shield or eye goggles.
7. Your employer must provide hand sanitizer, soap, and water, and must have a formal cleaning and disinfecting program in place

How to access your rights?

- Visit Canada's webpage on your rights and responsibilities as an employee
<https://www.canada.ca/en/government/publicservice/covid-19/rights-responsibilities.html>

Filing a claim

- In Ontario, you can file a claim with the Ministry of Labour, Training and Skills Development if you reasonably believe that your rights under the *Employment Standard Act (ESA)*, has been violated by your workplace.
- For more information about how to make a claim please visit
<https://www.ontario.ca/document/your-guide-employment-standards-act-0/filing-claim>

FOR MORE INFORMATION AND SUPPORT

Temporary Changes to ESA

<https://www.ontario.ca/document/your-guide-employment-standards-act-0/covid-19-temporary-changes-esa-rules>

Rights and Responsibilities

<https://www.canada.ca/en/government/publicservice/covid-19/rights-responsibilities.html>

Ontario Human Rights Legal Support and Services

Tel: (416) 597-4900

Toll Free: 1-866-625-5179

Monday, Tuesday, Wednesday and Friday: 9 am to 5 pm

Thursday: 2 pm to 6 pm

Employment Standards Information Centre

webes@ontario.ca

Tel: 416-326-7160

Toll-free: 1-800-531-5551

Canada's Economic Response Plan

<https://www.canada.ca/en/departement-finance/economic-response-plan.html>

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